




REPORT TO THE PLANNING COMMISSION

AGENDA ITEM NO. *VIII-A*
COMMISSION MEETING 12-01-10

December 1, 2010

FROM: KEVIN FABINO, Planning Manager
Development Services Division 

THROUGH: MIKE SANCHEZ, Planning Manager
Development Services Division 

BY: MCKENCIE CONTRERAS, Planner
Development Services Division 

APPROVED BY


DEPARTMENT DIRECTOR

SUBJECT: CONSIDERATION OF AN APPEAL OF THE DIRECTOR ACTION APPROVING
CONDITIONAL USE PERMIT APPLICATION NO. C-10-143 AND ENVIRONMENTAL
FINDING FOR ENVIRONMENTAL ASSESSMENT NO. C-10-143

RECOMMENDATION

Upon consideration of staff evaluation, it can be concluded that proposed Conditional Use Permit Application No. C-10-143 is appropriate for the project site. Therefore, staff recommends the Planning Commission take the following actions:

1. APPROVE the environmental finding of Environmental Assessment No. C-10-143 dated October 13, 2010, a determination that the proposed project is exempt from CEQA through a Class 1 Categorical Exemption.
2. DENY the appeal and UPHOLD the action of the Development and Resource Management Department Director approving Conditional Use Permit Application No. C-10-143 subject to the Conditions of Approval detailed in the approval letter for Conditional Use Permit Application No. C-10-143 dated October 14, 2010.

EXECUTIVE SUMMARY

Conditional Use Permit Application No. C-10-143, filed by Jaime Gonzalez, pertains to property located on the northwest corner of East Divisadero and North Fulton Streets. The applicant requests authorization to establish a live music venue and full service restaurant/bar/nightclub with a State of California Alcoholic Beverage Control Type 48 license (*sale of beer, wine, and distilled spirits for consumption on the premises where sold*) and to operate from 5 p.m. to 2 a.m. The nightclub is proposed within an existing two-story commercial office building that has been vacant for 17 years. The request to establish a restaurant, tavern, and nightclub is consistent with the existing C-4 (*Central Trading District*) zone district.

The Development and Resource Management Department Director approved the subject conditional use permit application on October 14, 2010. In accordance with the Special Permit Procedure of the Fresno Municipal Code (FMC), a notice of granting of the conditional use permit application was mailed to property owners (and others) within 500 feet of the subject site. In response to this notice, six appeals from surrounding neighbors were received.

PROJECT INFORMATION

PROJECT	Conditional Use Permit Application No. C-10-143 requests authorization to establish a live music venue and full service restaurant/bar/nightclub with a State of California Alcoholic Beverage Control Type 48 license (<i>sale of beer, wine, and distilled spirits for consumption on the premises where sold</i>) and to operate from 5 p.m. to 2 a.m. The nightclub is proposed within an existing two-story commercial office building that has been vacant for 17 years.
APPLICANT	Jaime Gonzalez
LOCATION	875 East Divisadero Street; Located on the northwest corner of East Divisadero and North Fulton Streets
SITE SIZE	± 0.09 acre
LAND USE	Existing - Vacant Building Proposed - Fulton 55 Live Music Venue (nightclub)
ZONING	C-4 (<i>Central Trading District</i>)
PLAN DESIGNATION AND CONSISTENCY	The request to construct a restaurant, tavern, and nightclub is consistent with the existing C-4 (<i>Central Trading District</i>) zone district, however the C-4 zone district is not consistent with the Commercial/Mixed Use Level 1 (Central Area) planned land use designation of the 2025 General Plan, the Central Area Community Plan, and the Fulton/Lowell Specific Plan. The subject property was zoned prior to the Local Planning and Procedures Ordinance of the City of Fresno, therefore the project is consistent.
ENVIRONMENTAL FINDING	Staff has determined that the proposed project is exempt from CEQA through a Class 1 Categorical Exemption, dated October 13, 2010
PLAN COMMITTEE RECOMMENDATION	Currently, there is no District Plan Implementation Committee in Council District 3.
STAFF RECOMMENDATION	Staff recommends approval of Conditional Use Permit Application No. C-10-143 subject to the Conditions of Approval detailed in the approval letter dated October 14, 2010.

BORDERING PROPERTY INFORMATION

	Planned Land Use	Existing Zoning	Existing Land Use
North	Commercial Mixed Use Level I (Central Area)	C-4 (<i>Central Trading District</i>)	Commercial/Retail
East	Commercial Mixed Use Level I & II (Central Area)	C-4 (<i>Central Trading District</i>)	Multiple Family Residential/Mixed Use
South	Commercial Mixed Use Level I (Central Area)	C-4 (<i>Central Trading District</i>)	Commercial/Retail

West	Commercial Mixed Use Level I (Central Area)	C-4 (Central Trading District)	Retail
-------------	--	--	--------

ENVIRONMENTAL FINDING

The proposed project was determined to be exempt from CEQA on October 13, 2010, under a Class 1 Categorical Exemption.

A Class 1 exemption consists of, among other things, the minor alteration of existing public or private structures involving negligible or no expansion of an existing use. Included in this exemption are interior or exterior alterations.

The above described project consists of interior and exterior alterations to the existing structure and is located in a fully urbanized and developed area that is not environmentally sensitive and where all public facilities are available to serve the proposed project. No adverse environmental impacts will occur as a result of the proposed project. None of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, section 15300.2 apply to this project.

BACKGROUND / ANALYSIS

Conditional Use Permit Application No. C-10-143, filed by Jaime Gonzalez, is requesting authorization to establish a live music venue and full service restaurant/bar/nightclub with a State of California Alcoholic Beverage Control Type 48 license (*sale of beer, wine, and distilled spirits for consumption on the premises where sold*) and to operate from 5 p.m. to 2 a.m. The nightclub is proposed within an existing 7,525 square foot two-story commercial office building that has been vacant for 17 years. The applicant proposes an interior remodel of the building with only minimal repairs to the exterior of the building. The ground level will include a platform for performing jazz artists, restrooms, seating areas and bar. The second floor will include lounge and seating areas, an office and a green room for performing artists.

The proposed hours of operation will be as follows:

Wednesday through Saturday—Nightclub: 5 p.m. to 2 a.m. (Initial hours)
 Sunday through Tuesday—Nightclub: 5 p.m. to 2 a.m.

The hours of dancing shall be as follows:

Age of Participants	Closing Hour	Extensions
Under 18 years of age	12 midnight	—
Under the age of 21	1 o'clock am	—
21 and over	2 o'clock am	5 o'clock a.m. on New Year's day
	Night Clubs may stay open until 4 o'clock a.m. in the Central Area Community Plan boundaries south of Divisadero Street.	
Restricted Hours	No dancing shall be held between the applicable closing hour and 8 o'clock a.m. of any day.	

Currently, the existing building is vacant and covers the entire subject site. The subject site is surrounded by commercial and retail uses to the north, east and west and by multiple family/mixed use development to the south.

The Development and Resource Management Department Director approved the subject conditional use permit application on October 14, 2010. In accordance with the Special Permit Procedure of the FMC, a notice of granting of the conditional use permit application was mailed to property owners (and others) within 500 feet of the subject site. In response to this notice, six appeals from surrounding neighbors were received.

Fresno Police Department

The Fresno Police Department has required the applicant to develop and maintain a written security plan. The security plan must be approved by the Fresno Police Department before occupancy is issued.

Time to Stop Sales, Service and Consumption of Alcohol

Table III under section 12-326.E.3 of the FMC indicates that for a night club, within the C-4 zone district, the time to stop sales, service and consumption of alcohol is 2:00 a.m. nightly.

LAND USE PLANS AND POLICIES

Freeway 99-Golden State Corridor Redevelopment Plan

The subject site is located within the boundaries of the Freeway 99-Golden State Corridor Redevelopment Area and is subject to the recommendations made by the Redevelopment Agency of the City of Fresno as listed in their memorandum dated July 12, 2010.

Fulton/Lowell Specific Plan

Development is subject to the Fulton/Lowell Specific Plan mission and goals, which include the following:

1. Mission: Improve the image, perception and physical environment of the Fulton/Lowell Area.
2. Goal 10: Foster a comprehensive environment for cultural arts education and entertainment opportunities in the Fulton/Lowell Area.

Central Area Community Plan

Development is subject to the Central Area Community Plan goals, goals and policies, which include the following:

1. Goal 8.3: Promote, secure and enhance the Central Area as the urban-oriented cultural and entertainment center for the central San Joaquin Valley.
2. Cultural and Entertainment Policy 2: Maintain and improve public and private cultural and entertainment facilities in the Central Area.
 - a. Implementation Action: Cul 2-4: Encourage and support existing facilities and construct new facilities as necessary to stage cultural and entertainment activities

2025 Fresno General Plan

The following objectives and policies of the 2025 Fresno General Plan are applicable to the subject site:

1. Objective C-5: Improve the overall image, building appearance, landscape character, and spatial relationships of physical elements in the Central Plan Area to provide a unique, high-quality urban environment.
2. Policy C-5-e: Provide and maintain an urban image which creates a "sense of place" for Fresno's Central Area and promotes a greater concentration of buildings and people.
3. Objective C-18: Enhance the visual image of all "gateway" routes entering the Fresno metropolitan area.
4. Policy C-18-b: Gateway designation shall apply to key access routes such as Van Ness/Fulton and shall receive a greater emphasis on streetscape improvements to identify them as special entryways.

Upon consideration of all relevant plans and policies, it can be concluded that the proposed project meets the intent of the aforementioned objectives and policies.

District Plan Implementation Committee

Currently, there is no District 3 Plan Implementation Committee.

Fulton/Lowell Specific Plan Design Review

The Fulton/Lowell Specific Plan Design Review Committee reviewed Conditional Use Permit Application No. C-10-143 at their meeting on July 19, 2010. The committee recommended approval subject to the following conditions:

1. More windows on the second floor, if possible
2. Security Plan
3. Receptacles for garbage and cigarettes at the entrance of building on Divisadero and Fulton
4. Police mitigations, except for parking structure requirement
5. Parking agreement with African American Museum to be finalized prior to operation
6. Trees in tree wells

Several of the recommendation of the Fulton/Lowell Specific Plan Design Review Committee have been incorporated into the conditions of approval.

APPEALS AND ANALYSIS OF THE APPEALS

The following provides a summary of the appeal items in the appeal letters dated October 17, 26, 27 and 28, 2010, followed by an explanation:

Item #1:

The appellants are concerned with an increase in traffic and parking.

Staff Response: Pursuant to the FMC, parking or space requirements shall not apply upon a change of occupancy for any building or structure which was constructed before February 13, 1954, provided that the parking area or space existing immediately before a change of occupancy is not reduced. The American Title Company assigns a 1950 construction date to the mid-century building. There is no original building permit on file but a 1951 permit was issued for alterations to a store for retail. The subject site did not previously have existing parking. Therefore, no parking is required by the FMC. Several of the appellants have also been allowed to operate without providing additional parking because of the construction date of their building.

Staff has added the condition that patrons shall not utilize parking in the interior residential streets, i.e. north of Divisadero. The applicant has stated that they have signed a contract with the African American Museum for additional parking.

Item #2:

The appellants are concerned with the generation of noise.

Staff Response: Staff has included noise requirements within the conditions of approval. The FMC requires that noise levels for commercial zoned properties not exceed 60 decibels from 10 p.m. to 7 a.m. and 65 decibels from 7 a.m. to 10 p.m. measured at the nearest subject property line. The proposed use will be required to comply with this condition.

The applicant has indicated that new dual pane windows and doors have been installed into the building to assist and contain noise. An additional wall has been built inside the entrance and a lock feature on the sound and lighting system has been installed to address noise.

Item #3:

The appellants are concerned with the security of the area and an increase in crime.

Staff Response: There is no evidence in the record to support this claim. The Fresno Police Department has reviewed the conditional use permit and has provided comments. The applicant will be installing a surveillance system to assist in the control of any unsafe activity. A security plan approved by the Fresno Police Department is required prior to occupancy.

Item #4:

The appellants are concerned with the sale of alcohol.

Staff Response: The applicant is required to obtain the alcohol license from the Alcohol and Beverage Control Department (ABC). According to ABC, the applicant is requesting a Type 48 license and will be restricted to no off-site sales. There is no evidence in the record to show an overconcentration in the area.

Item #5:

The nightclub would be a negative impact on the Lowell Elementary School, Youth for Christ, Evangel Homes, and the Salvation Army Fresno Citadel.

Staff Response: There is no evidence in the record which supports this claim. The Fresno Unified School District reviewed the subject application. The school district's response is subject to ABC and the Fresno Police Department approval, both of which has or will review the proposed license. The required employee training and required security will monitor the activity of the proposed use to maintain a secure environment.

The FMC does not restrict the proposed use to be located near the above mentioned existing uses. The use proposed is allowed on the subject site with a conditional use permit.

In summary, the proposed project will not have a significant impact on the adjacent properties subject to compliance with the conditions of approval.

NOTICE OF PLANNING COMMISSION MEETING

The Development and Resource Management Department mailed notices of this Planning Commission hearing to surrounding property owners (and others) within 500 feet of the subject site.

CONDITIONAL USE PERMIT APPLICATION REVIEW FINDINGS

No special permit may be issued unless it is found that the privilege exercised under the permit, as it may be conditioned, conforms to the findings of Section 12-405-A-2 of the FMC. Based upon analysis of the conditional use permit application, staff concludes that all of the required findings can be made for this conditional use permit application as follows:

Findings per Fresno Municipal Code Section 12-405-A-2	
a. <i>All applicable provisions of this Code are complied with and the site of the proposed use is adequate in size and shape to accommodate said use, and accommodate all yards, spaces, walls and fences, parking, loading, recycling areas, landscaping, and other required features; and,</i>	
Finding a:	Conditional Use Permit Application No. C-10-143 will comply with all applicable codes, given that the special conditions of project approval will ensure that all conditions are met prior to the occupancy. The applicant will be required to submit new exhibits, inclusive of all of the conditions of approval, which will ensure that all requirements are met.
b. <i>The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use; and,</i>	
Finding b:	Conditional Use Permit Application No. C-10-143 is located on the northwest corner of East Divisadero Street (collector) and North Fulton Street (scenic drive). The streets relating to the site will be able to carry the quantity and kind of traffic generated.
c. <i>The proposed use will not be detrimental to the public welfare or injurious to property or improvements in the area in which the property is located. The third finding shall not apply to uses which are subject to the provision of Section 12-306-N-30 of the FMC.</i>	
Finding c:	The approval of this conditional use permit application will not be detrimental to the public welfare or injurious to property or improvements in the area. The proposed project will actually be an improvement to the area, occupying a vacant building, which has remained vacant for many years. The applicant will be required to comply with the conditions of approval as required by the Police Department which will stipulate certain requirements that must be met by the applicant. These conditions are intended to help protect the public health, safety and welfare of patrons and neighbors, alike.

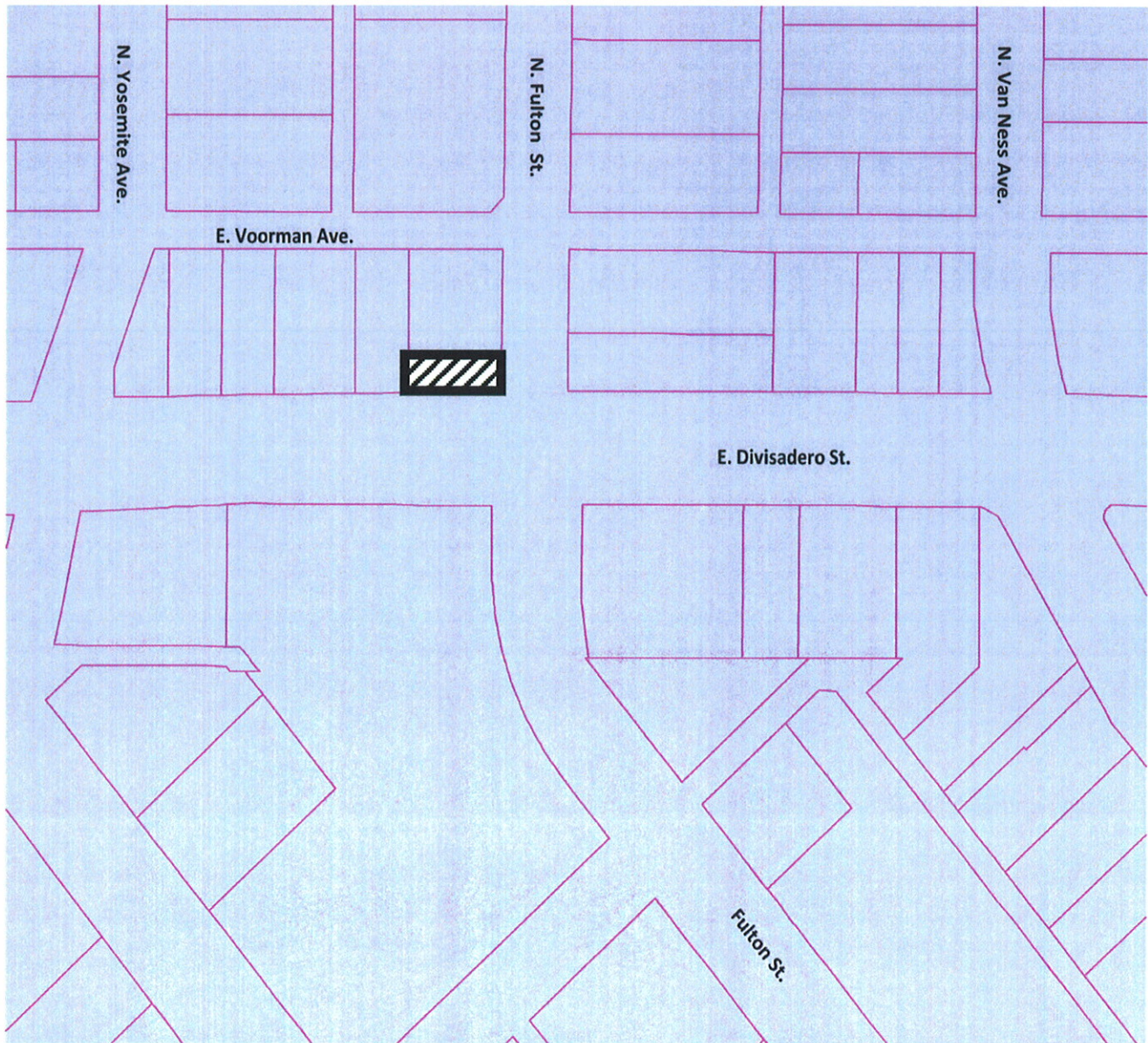
CONCLUSION

In conclusion, given that all mandated conditional use permit findings required pursuant to Section 12-405-A-2 of the FMC can be made for Conditional Use Permit Application No. C-10-143 and given that the project meets all requirements of a Class 1 Categorical Exemption and is thus exempt from CEQA, staff recommends that the Planning Commission deny the appeal and uphold the action of the Director as previously described in this staff report.

Attachments: Exhibit A: Vicinity Map
 Exhibit B: 2008 Aerial Photograph of site

- Exhibit C: Noticing Map (500-foot radius)
- Exhibit D: Site Plan, Elevation, and Floorplan
- Exhibit E: Operational Statement
- Exhibit F: Appeal Letters
- Exhibit G: Conditions of Approval dated October 14, 2010
- Exhibit H: Applicant Response to Police Department Concerns
- Exhibit I: Proposed Security Plan
- Exhibit J: Parking Agreement
- Exhibit K: Environmental Assessment No. C-10-143, dated October 13, 2010

Vicinity Map



Subject Property

VICINITY MAP

DEVELOPMENT AND RESOURCE MANAGEMENT DEPARTMENT

Conditional Use Permit Application
No. C-10-143

PROPERTY ADDRESS

875 East Divisadero Street



Not To Scale

APN: 459-305-07

Zone District: C-4 (*Central Trading District*)

By: M. Contreras, November 18, 2010

2008 Aerial Photograph of Site



N. Fulton St.

Project Site

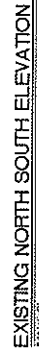
E. Divisadero St.

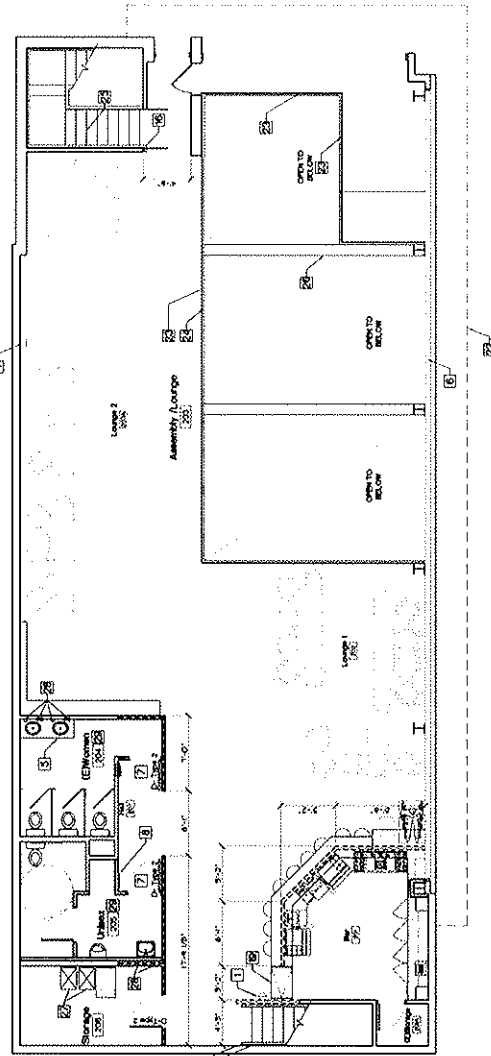
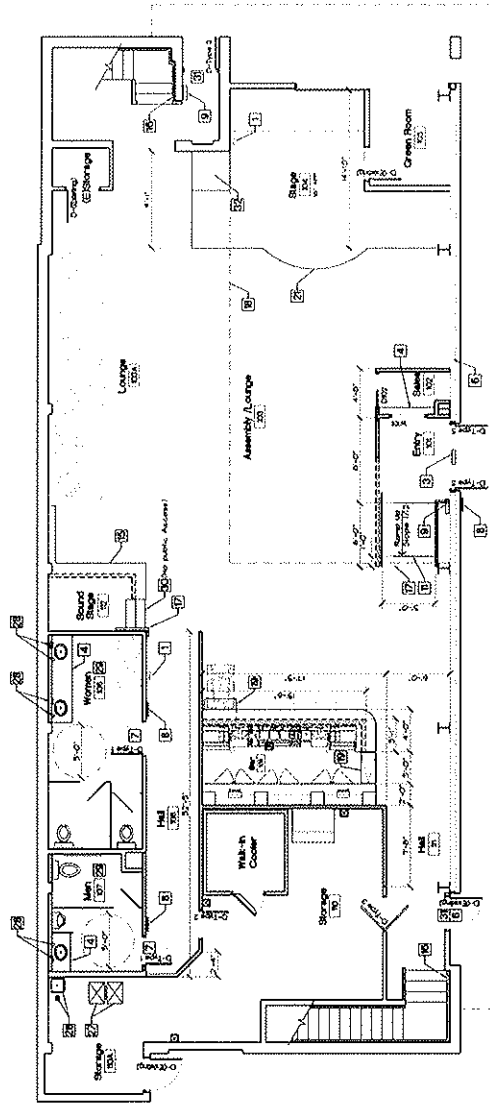
2008 Aerial Photograph

Noticing Map

Request ID: C-459301054

Site Plan, Elevations, and Floorplan



[illegible]

Operational Statement

Proposed use:

Restaurant, bar and nightclub with live entertainment including incidental patron dancing.

Project site address:

The Velvet Lounge is located at 875 E. Divisadero St.

Assessor's Parcel Number:

459-305-07 (on the northwest corner of E. Divisadero and N. Fulton Streets)

Parcel Area:

.06 acre

Existing General Plan land use designation:

Velvet Lounge is a proposed Live Music Venue space with full service bar, located on the northwest of E. Divisadero and Fulton Streets. The entire 7,531 square foot, two story building would be used as part of this use. The ground level will include a platform for performing jazz artists, restrooms, seating areas and bar. The second floor will include lounge and seating areas, office and green room for performing artists.

The dilapidated building has been vacant for 17 years and from discussions with the owner, interest has been nominal. Given the age of the building and its current condition, there will be an extensive remodel prior to occupancy to better serve the area both functionally and aesthetically. This proposed music venue will contribute to the City of Fresno's ("City") goal of redevelopment of the downtown Cultural Arts District ("District") by providing an eclectic live entertainment environment that encourages a friendly and authentic nightlife experience. Furthermore, the Velvet Lounge is consistent with the the City's plan to replace older, dilapidated buildings with modern and inviting commercial space.

Planned land use and existing zone district:

Commercial Mixed Use Level 1 as defined in the Central Area Community Plan and the Fulton-Lowell Specific Plan while the site is zoned C-4 (Central Trading District)

Specific Plan Area:

Fulton Lowell Specific Plan designates the site for Commercial Mixed-Use Level 1. The purpose of the specific plan is to achieve the following goals for the Fulton/Lowell area:

1. Improve the image, perception and physical environment of the Fulton Divisadero area.
2. This proposed music venue will contribute to the City of Fresno's ("City") goal of redevelopment of the downtown Cultural Arts District ("District") by providing an

eclectic live entertainment environment that encourages a friendly and authentic nightlife experience. The Velvet Lounge development plan complements the City's plan to replace older, dilapidated buildings with modern and inviting commercial space.

Also note that the plan encourages commercial uses that stay open after 5 pm, promote day and night uses and promote entertainment events.

Community plan Area:

The project is located in the Central Area Community Plan. The Plan calls for encouraging nightlife uses, including jazz clubs, nightclubs, restaurants etc. in an effort to encourage visitors to the heart of the City. Although Downtown has minimal options and the vision of the plan has never been fully realized, we believe that creating a worthy venue will not only bring people downtown, but encourage a friendly authentic nightlife experience where you can find residents on foot on any given night.

Identify the Redevelopment plan (if applicable):

Cultural Arts District redevelopment plan

Discussions with neighbors:

The Velvet Lounge has been discussed with Cornerstone Church, Reza Assemi – Iron Bird Lofts (as well as several tenants from The Iron Bird). Note that numerous buildings in the immediate vicinity are currently vacant thus it is not anticipated that any negative impacts would be created. Rather, it is anticipated that property values will increase given that we are proposing to remodel a vacant building which will encourage further development.

Describe how the proposal is complementary to the surrounding neighborhood:

The Development compliments the surrounding neighborhood (area), considered the Cultural Arts District, by increasing the exposure of the cultural arts to the residents of the development. The project's architectural design fits the cultural designs of the existing buildings, complementing the old structures with the new.

The area south of Fulton and Divisadero, known as "Fulton," is predominately nonresidential and is characterized by a mix of commercial, office, multi-family residential, and industrial uses including the Metropolitan Museum, Warner's Theater, Silvercrest Residence, Veteran's Memorial Auditorium, and the facilities for City, County, State, and Federal Governments. The Velvet Lounge compliments the existing uses of the surrounding neighborhoods.

Describe in detail the proposed use(s):

The Velvet Lounge, located in downtown Fresno's Cultural Arts District, will be a premier venue showcasing local professional musical talent as well as national touring acts. While the Central Valley has produced a wealth of talent in the music and arts industry it has

lacked a worthy venue commensurate with the professional ability of its artists. The Velvet Lounge will fill that creative and entertainment void.

It will offer professional performance facilities for nightly live music entertainment in an eclectic, urban entertainment environment for up to 300 patrons. In addition to its performance capabilities, The Velvet Lounge will also offer a full bar and a unique two-story listening experience.

Hours of Operation and Employee count:

The Velvet Lounge will follow normal business hours customary for the evening entertainment industry - 5:00 PM – 2:00 am. Note that we will initially be open on Wednesday through Saturday, however if successful we would like the opportunity to also open on Sunday, Monday and Tuesday. The total employment is at 20 persons.

Expected number of daily visitors/users/guests:

Expected visitors are approximately 300.

Parking:

The existing building currently occupies the entire site thus there is no on-site parking. However, the Central Area Community Plan and the zoning ordinance acknowledge and permit change of occupancies without providing additional parking. Section 12-306-I-2.2 states that buildings constructed prior to Feb. 1954 are not required to provide off-street parking regardless of use while the Central Area Community Plan and current planning efforts led by Moule & Polyzoides state that parking may be accomplished by on-street parking and community parking facilities. Note that we have not found records of the exact date of construction however our research indicates that in 1950 a remodel permit was issued for this building while there have been no noted additions to the building since.

In addition it is anticipated that many of our patrons will walk to our facility from the Fulton-Lowell community as well as the numerous residents living in the Assemi family constructed units immediately to the south of our site.

Any reasonable foreseeable effects from construction and/or operation of the site that may impact the neighbors:

It is expected that the neighbors to the north may be impacted somewhat during the remodeling phase of construction with construction vehicles parking in the surrounding areas, however this will be for a short period and all efforts will be made to ensure that any disruptions are kept at a minimum.

Noise levels, not to exceed that which is customary with minimal exterior repair and remodeling work with the bulk of the remodel being on the interior. The Project expects to keep the construction working hours between 7:00 a.m. and 5:30 p.m. During construction the impact to the neighbors should be no different than the impact felt by the neighbors during the construction of the Iron Bird Lofts.

During the operation of the Velvet Lounge, we will comply with all adopted regulations and will work closely and openly with any and all neighbors to ensure that noise is kept to a minimum. We further understand that noise carries further at night given that daytime uses that baffle noise will be nonexistent. Thus, we will keep all doors closed and will address in and all any noise complaints immediately and will extend an invitation to all immediate neighbors to contact us for should any issues arise.

Detail all security measures:

The building will remain locked with alarmed security during the construction phase and once opened. The venue will maintain security personnel at all times covering the following areas: the outside of the building, the outside rear door of the building, and the control booth (ticketing). Additionally, surveillance cameras will continually monitor the following areas: The control booth, the bar area and two general wide camera angels of the general lounge area. The City already has a video camera monitoring system for the corner of Divisadero and Fulton.

Persons under the age of 21 will not be permitted to access the premises. Persons under 21 years of age may not be employed in a public premises with the following exception: Persons 18-21 years of age may be employed as musicians, for entertainment purposes only, during business hours in On-Sale premises in an area restricted for the exclusive use of musicians or entertainers. No alcoholic beverages may be served, consumed or taken into the restricted area.

Appeal Letters

LOZANO SMITH
ATTORNEYS AT LAW
Partnering For Excellence In Education And Government

Dale E. Bacigalupi
Attorney at Law

E-mail: dbacigalupi@lozanosmith.com

October 28, 2010

By Hand Delivery

John M. Dugan, AICP, Director
Development and Resource Management Department
City of Fresno
2600 Fresno Street
Fresno, California 93721

Re: Conditional Use Permit Application # C-10-143

Dear Mr. Dugan:

This office represents Joseph and Ranee Johnson and their business located at 916 E. Divisadero, Wildrose Chapel & Funeral Home. Mr. and Mrs. Johnson also live at this location as their primary residence.

This letter constitutes an appeal of the Director's decision to grant Conditional Use Permit Application # C-10-143 (the "CUP").

I attach herewith a letter directed to you from the Johnsons and their business, setting forth their objections to and reasons for the appeal.

As you will note, we believe that the decision granting the Conditional Use Permit has been hastily granted without adequate consideration being given to the deleterious impact this adult entertainment business will have on adjacent businesses and residents.

My clients' business will be particularly impacted because, as a chapel and funeral home, which caters to the tender needs of the bereaved, it is essential that peace, tranquility, and safety be maintained at all times so that the environment of those who come to mourn their loss is appropriate. Their hours of operation include both daytime and evening hours and it is not uncommon for viewings or services to be held in the evening hours, during the same hours in which a loud, raucous and busy bar, with live music, directly across the street would be in operation. This kind of incompatibility simply will not work and there are no mitigation measures that can be properly introduced into the operation of the bar that will prevent disturbances or will minimize to an acceptable level the impact on Wildrose Chapel & Funeral Home.

A Professional Corporation

7404 N. Spalding Avenue Fresno, California 93720-3370 Tel 559-431-5600 Fax 559-261-9366

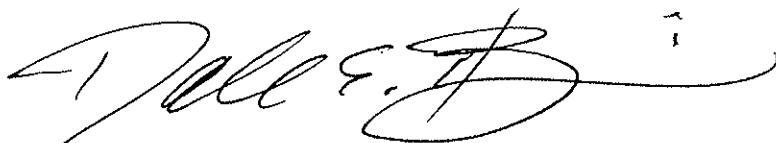
John M. Dugan, AICP, Director
Development and Resource Management Department
City of Fresno
October 28, 2010
Page 2

While my clients' letter speaks for itself, we trust you will reconsider and reverse the decision approving the CUP in light of the impacts set forth.

Please keep both my clients and me advised of further proceedings with regard to this Conditional Use Permit, including any hearings which you or the Planning Commission conduct in the future.

Sincerely,

LOZANO SMITH

A handwritten signature in black ink, appearing to read "Dale E. Bacigalupi", with a stylized flourish at the end.

Dale E. Bacigalupi

DEB/sr

Encl.

cc: Wildrose Chapel & Funeral Home
Cynthia Sterling, Councilmember



WILDROSE

Chapel & Funeral Home

Lic. No. FD 1499 • 916 E. Divisadero, Fresno, CA 93721 • (559) 486-7777



October 28, 2010

Three pages delivered by hand with two attachments

John M. Dugan, AICP, Director
Development and Resource Management Department
2600 Fresno Street
Fresno, CA 93721

RE: Conditional Use Permit Application # C-10-143

Dear Mr. Dugan,

We received the notice granting the Special Permit Application No. C-10-143 on 10/15/2010. We are hereby protesting this permit allowing Jaime Gonzalez to open a Live Music Venue with full service bar for the following reasons:

1. We live at 916 E. Divisadero. It is our primary residence. Our front door is located within 120 feet of their front door. People leaving their establishment will disturb our sleep as they walk down the block to their cars until 2:00 a.m. when the bar will close. Our bedroom faces Divisadero. The city has pushed over and over that the way to improve the downtown area is by bringing in families to LIVE and work in the downtown area. The Iron Bird Lofts are located 88 feet from the entrance to the club. They currently have tenants in the lofts across the street from the proposed club. We wonder how long they will live there if their sleep is interrupted by people leaving the bar and walking down the street?
2. There is no parking required for this establishment. They have a possibility of 4 parking spaces in front of their establishment on Divisadero. Mr. Gonzalez has informed us that the city has given him NO parking lot requirements due to the age of his building (built prior to 1950). Our building was built in 1905 and is on the historic register.

When we opened in 1993, we had to meet parking requirements! We find this disturbing and discriminatory that no allowance is being made for parking. We own the only street access parking lot on the block and are getting tired of having cars towed in order to make parking available

for our own clients. Mr. Gonzalez and his manager Tony Martin both spoke with us on separate occasions to tell us that they had a contract (Mr. Gonzalez just said "contract"; Mr. Martin said, "Ten year contract") for parking at the African American Art Museum on Fulton, using valet parking. Mr. Martin told us the capacity at Fulton 55 is 680, but they are only planning for 500. This means they need parking for approximately 250 cars! We spoke with the director at the African American Art Museum yesterday (Oct. 27) and he informed us they had a VERBAL agreement only. He had planned to charge them a nominal fee for their use, when it was not occupied for an event at the Museum. He stated to us that he had no signed contract and that his lot would not hold 250 cars. We drove by and counted the parking spaces. The parking lot at the African American Art Museum has 37 spaces and one handicapped.

We feel that due to the lack of parking, Fulton 55 will eventually (and in a short while) become a regular neighborhood bar. Once the permits are in place, they will have the right to do business as a regular bar or nightclub. They (Gonzalez and Martin) have both said that they plan to be open only Wednesday through Sunday from 7:00 p.m. until 11:00 p.m.; however, their conditional use permit will allow them to open from 5:00 p.m. until 2:00 a.m. every day of the week.

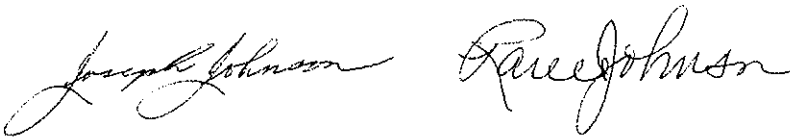
3. We hold evening Viewings, Rosaries, and Services where **children are present until after 9:00 p.m..** We are concerned as to how a nightclub across the street (with customers walking down the street to get there) will disturb the parents who bring their children with them. Sometimes the parents have their children seated outside on the steps of our funeral home while they come in to pay their respects. We have worked hard to establish our reputation as a SAFE, SECURE, place for them to bring their families for mourning. A live music venue and bar across the street is hardly the atmosphere for grieving. We are concerned that our business will decline. Are we going to have to hire security to make sure the children are safe?

4. In the notice from the city in regards to this project, it was mentioned, "The applicant has requested authorization to establish a live music venue and full service restaurant/bar/nightclub with a State of California Alcoholic Beverage Control Type 48 license (sale of beer, wine, and distilled spirits for consumption on the premises where sold)..." We have the brochure from the Department of Alcoholic Beverage Control which states that license #47 is for "eating establishments"; while #48 states, "On Sale General -- Public Premises -- (Bar, Night Club) authorizes the sale of beer, wine, and distilled spirits for consumption on the premises where sold. Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required." We have attached the actual brochure for you to compare. Our concern is that, although Mr. Gonzalez may intend at the present time, not to sell alcoholic beverages in closed containers for consumption off site, once he has the permits -- he has the right to do so. We do not allow alcoholic beverages in our building or on our property for the safety of those attending funerals. We have on occasion, held evening viewings for gang members. Alcohol becomes a fuel for anger at funerals.

We have attached a letter we sent to the Department of Alcoholic Beverages with our complaint that the notice to obtain a license to sell alcoholic beverages was not placed in plain view for the public until after the 30 days notice. We met with the Department to discuss this issue and were informed that when they inspected the sign, it was visible. She stated that she did not notice the wrought iron gate. Furthermore she stated that if she had noticed the wrought iron gate, that she would not have allowed them to post the sign behind it. We also told her that there was a sheet of plywood placed between the sign and the wrought iron gate. We know that the sheet of plywood was there because we thought the building had been broken into. On several occasions, our employees checked on the building in the evening and only saw the sheet of plywood behind the wrought iron gate – the sign for the application was never visible. When we discovered the sign, it was after the 30 days, posted behind the **closed wrought iron gate**. The lady from the Department of Alcohol stated, "I thought it was strange that we hadn't received any letters of protest, now it makes sense." She then told us she would have them repost the sign for another 30 days. Two days later she called us and told us that she had talked with the Department of Alcohol upstate and that they were going to consider the original posting sufficient. The photos were attached to the letter to the Department of Alcohol. We are including a copy of this letter with the photos for you to see.

Please do not allow this permit to be issued.

Sincerely,

The block contains two handwritten signatures in cursive script. The signature on the left is for Joseph Johnson and the one on the right is for Ranee Johnson. Both are written in dark ink.

Joseph & Ranee Johnson

Attachments:

1. Letter to the Department of Alcohol
2. Department of Alcohol Beverage Control Brochure "Common ABC License Types"

cc. Mayor Ashley Swearengin
cc. Mckencie Contreras, planner
cc. Cynthia Sterling
cc. Dale Bacigalupi, Esq.



WILDROSE

Chapel & Funeral Home

Lic. No. FD 1499 • 916 E. Divisadero, Fresno, CA 93721 • (559) 486-7777



September 24, 2010

California Department of Alcoholic Beverage Control
3640 E. Ashlan Ave.
Fresno, CA 93726

RE: License # 502397, Fulton 55LLC • 875 E. Divisadero, Fresno, CA 93721

To Whom It May Concern:

Please be advised that on 09/23/2010, we noticed the metal gate open to the above referenced address. The metal gate had obscured the legal posting of the request to obtain a liquor license with your department. (See attached photo)

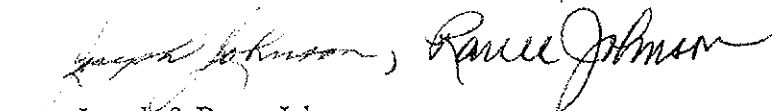
This sign had also been obscured by a sheet of plywood placed between the iron gate and the door of the premises; we are unaware of when that sheet of plywood was removed. We had thought the sheet of plywood had been placed there because the building had been broken into. A dumpster also obscuring the sign, was deposited in front of this door a few weeks ago when they were replacing the upstairs windows. One of our employees (Loren Spiller) walked across the street to check on the building about two weeks ago and found the sheet of plywood still placed between the iron gate and the entry door.

We realized yesterday that the license request had been made and the sign posted on 08/11/2010. However, none of the neighbors nor ourselves had been aware of this request.

We have started submitting a petition to stop this club throughout the neighborhood of low income families, and Four churches within a block of the mentioned building.

We respectfully request that you deny the application.

Sincerely,


Joseph & Rane Johnson, owners



**California Department of Alcoholic
Beverage Control**
License Query System Summary
as of 9/23/2010

License Information
License Number: 502397
Primary Owner: FULTON 55 LLC
ABC Office of Application: 21 - FRESNO
Business Name
Doing Business As: FULTON 55
Business Address
Address: 875 E DIVISADERO ST Census Tract: 0006.00
City: FRESNO County: FRESNO
State: CA Zip Code: 93721
Licensee Information
Licensee: FULTON 55 LLC
<i>Company Officer Information</i>
Officer: CANCHOLA, LIZETTE (MANAGING MEMBER)
Officer: GONZALEZ, JAIME M (MEMBER)
License Types
1) License Type: 48 - ON-SALE GENERAL PUBLIC PREMISES
License Type Status: PEND
Status Date: 10-AUG-2010 Term: 12 Month(s)
Original Issue Date: Expiration Date:
Master: Y Duplicate: 0 Fee Code: P40
License Type was Transferred On: FROM: 47-455872
Current Disciplinary Action
<i>... No Active Disciplinary Action found ...</i>
Disciplinary History
<i>... No Disciplinary History found ...</i>
Hold Information
Hold Date: 01-DEC-2009 Type: EMPLOYMENT DEV DEPARTMENT HOLD
Hold Date: 21-OCT-2009 Type: FRANCHISE TAX HOLD
Hold Date: 12-MAR-2010 Type: BOARD OF EQUALIZATION HOLD
Hold Date: 10-AUG-2010 Type: FORM 220
Escrow
Escrow: RICAR B COLE STATE OF CALIFORNIA SUPERIOR COURT APPOINTED RECEIVER, 1060 MINNESOTA AVE STE 2 SAN JOSE,CALIFORNIA 95125

--- End of Report ---

For a definition of codes, view our [glossary](#).



at&t Hi, Joseph | Available | Sign Out

What's New | Inbox 2897 emails

IMG00024-20100923-1639.jpg

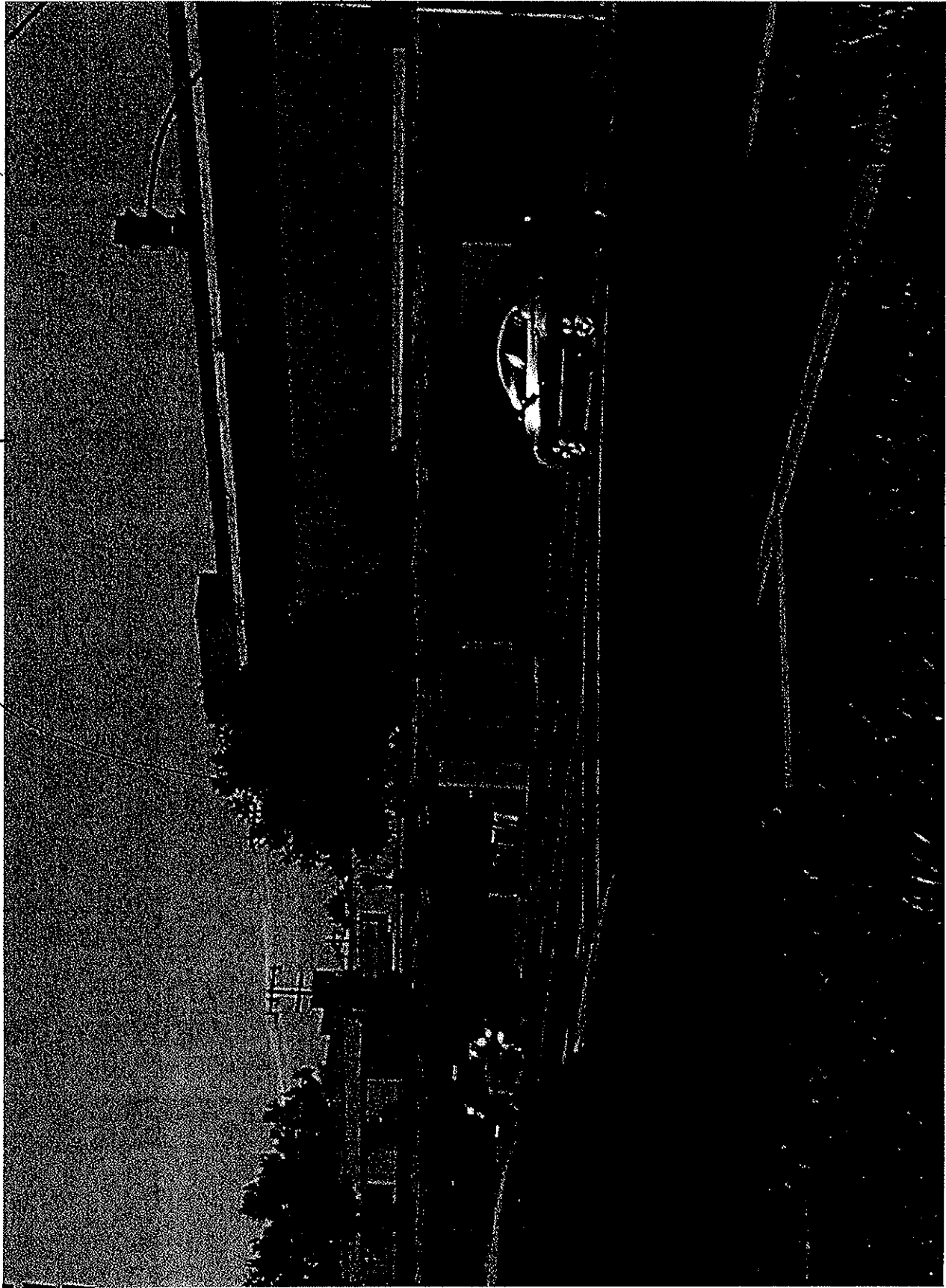
Search

Web Search

at&t



VI 20



Door sign posted here w/d
w/way it to be seen?

(255 unread) att.net Mail, jeanraaneenumber1@sbloglobal.net

 **at&t** | Hi, Joseph | Available | Sign Out

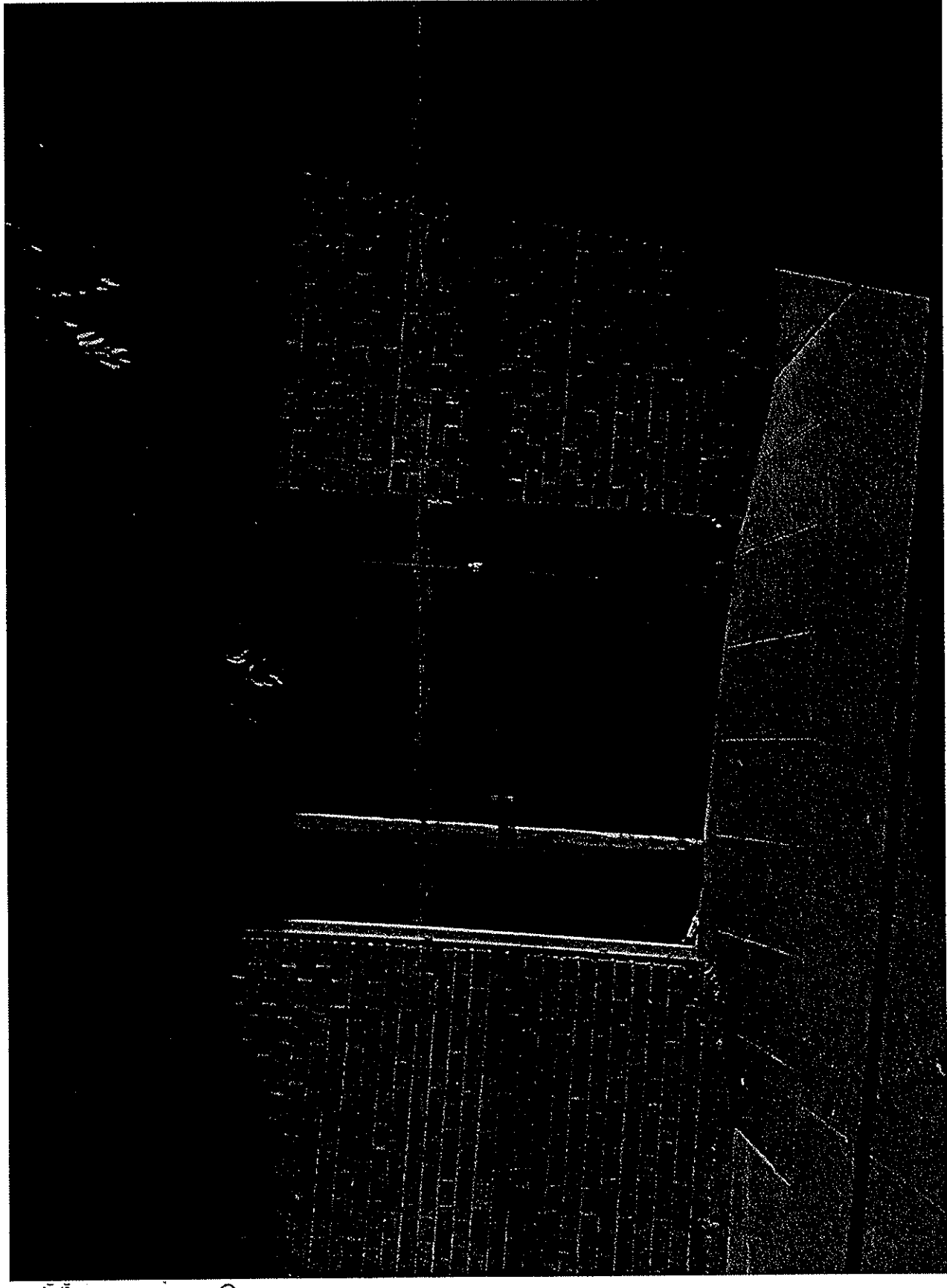
at&t

Search

Web Search

What's New | Inbox 2898 emails

IMG00027-20100924-0753.jpg



Unable to see sign when door is open
Men are working on the building.



Hi, Joseph | Available | Sign Out

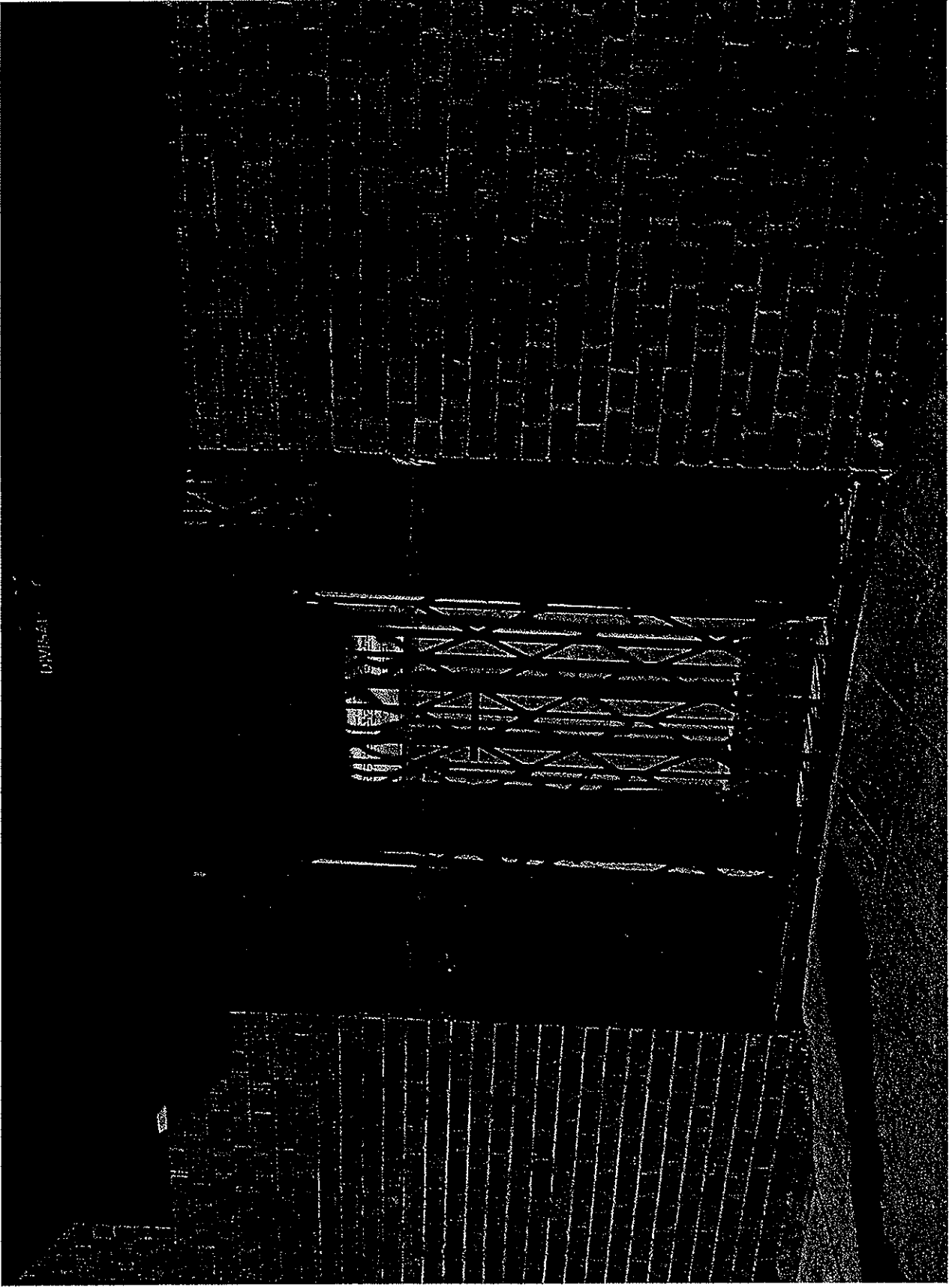
at&t

Search

Web Search

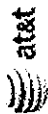
What's New | Inbox 2897 emails

IMG00022-20100923-1554.jpg



Yt
Si

What's New Sign



Hi, Joseph | Available | Sign Out

at&t

Search

Web Search

What's New | Inbox 2897 emails

598 Check y Credit S

IMG00025-20100923-1932.jpg

Delete | Reply | Forward

Spam

Move

Print

Actions

24, 2010 9:25:1

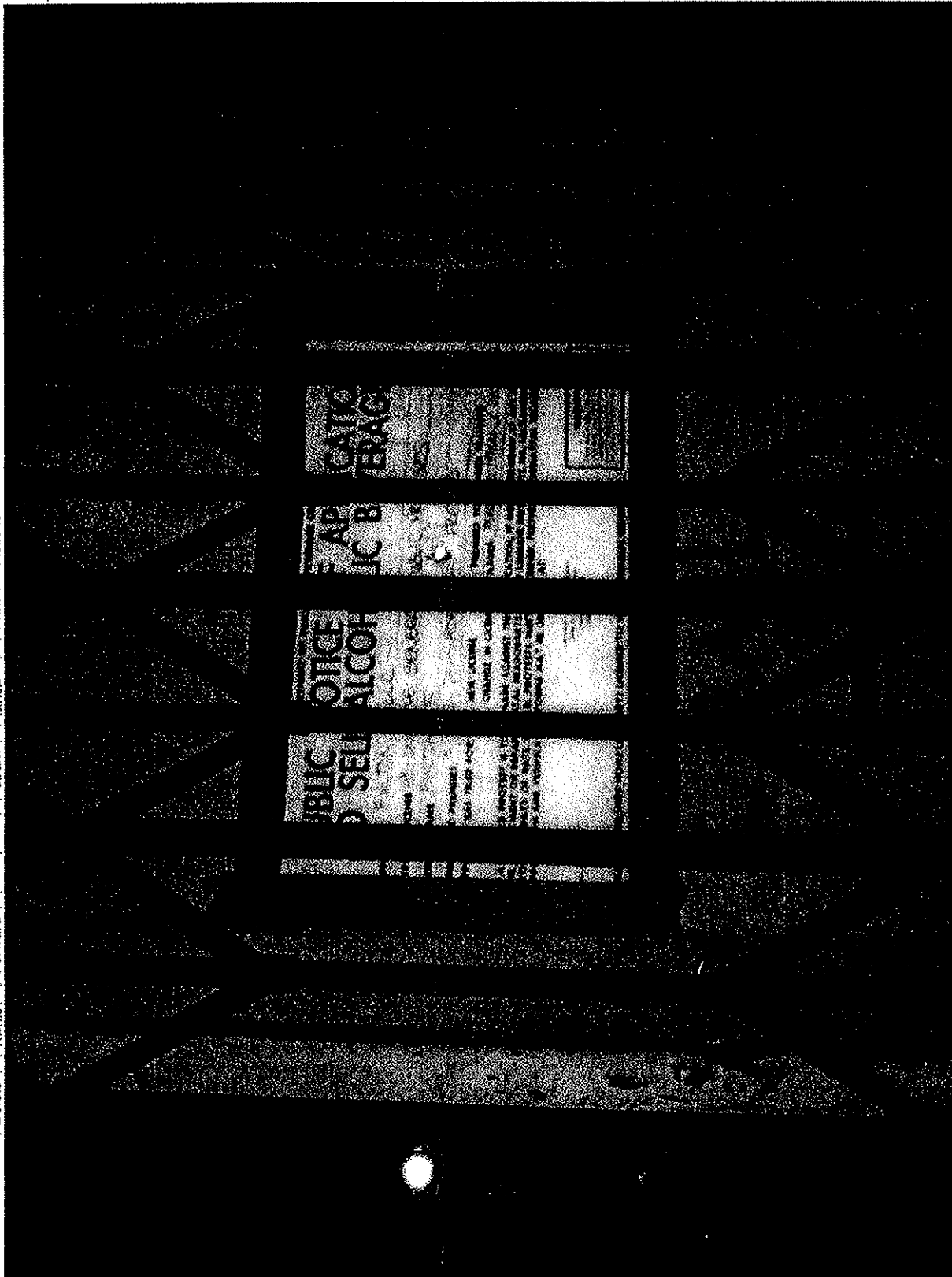


Image 1 of 1

Close

Close up of sign behind
new gate

COMMON ABC LICENSE TYPES AND THEIR BASIC PRIVILEGES

LICENSE TYPE	DESCRIPTION
01	BEER MANUFACTURER - (Large Brewery) Authorizes the sale of beer to any person holding a license authorizing the sale of beer, and to consumers for consumption on or off the manufacturer's licensed premises. Without any additional licenses, may sell beer and wine, regardless of source, to consumers for consumption at a bona fide public eating place on the manufacturer's licensed premises or at a bona fide eating place contiguous to the manufacturer's licensed premises. May conduct beer tastings under specified conditions (Section 23357.3). Minors are allowed on the premises.
02	WINEGROWER - (Winery) Authorizes the sale of wine and brandy to any person holding a license authorizing the sale of wine and brandy, and to consumers for consumption off the premises where sold. Authorizes the sale of all wines and brandies, regardless of source, to consumers for consumption on the premises in a bona fide eating place that is located on the licensed premises or on premises owned by the licensee that are contiguous to the licensed premises and operated by and for the licensee. May possess wine and brandy for use in the preparation of food and beverage to be consumed at the bona fide eating place. May conduct winetastings under prescribed conditions (Section 23356.1; Rule 53). Minors are allowed on the premises.
20	OFF SALE BEER & WINE - (Package Store) Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are allowed on the premises.
21	OFF SALE GENERAL - (Package Store) Authorizes the sale of beer, wine and distilled spirits for consumption off the premises where sold. Minors are allowed on the premises.
23	SMALL BEER MANUFACTURER - (Brew Pub or Micro-brewery) Authorizes the same privileges and restrictions as a Type 01. A brewpub is typically a very small brewery with a restaurant. A micro-brewery is a small-scale brewery operation that typically is dedicated solely to the production of specialty beers, although some do have a restaurant or pub on their manufacturing plant.
40	ON SALE BEER - (Bar, Tavern) Authorizes the sale of beer for consumption on or off the premises where sold. No wine or distilled spirits may be on the premises. Full meals are not required; however, sandwiches or snacks must be available. Minors are allowed on the premises.
41	ON SALE BEER & WINE - EATING PLACE - (Restaurant) Authorizes the sale of beer and wine for consumption on or off the premises where sold. Distilled spirits may not be on the premises (except brandy, rum, or liqueurs for use solely for cooking purposes). Must operate and maintain the licensed premises as a bona fide eating place. Must make actual and substantial sales of meals, during the normal meal hours that they are open, at least five days a week. Normal mealtimes are 6:00 a.m. - 9:00 a.m., 11:00 a.m. - 2:00 p.m., and 6:00 p.m. - 9:00 p.m. Premises that are not open five days a week must serve meals on the days they are open. Minors are allowed on the premises.
42	ON SALE BEER & WINE - PUBLIC PREMISES - (Bar, Tavern) Authorizes the sale of beer and wine for consumption on or off the premises where sold. No distilled spirits may be on the premises. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.
47	ON SALE GENERAL - EATING PLACE - (Restaurant) Authorizes the sale of beer, wine and distilled spirits for consumption on the licensed premises. Authorizes the sale of beer and wine for consumption off the licensed premises. Must operate and maintain the licensed premises as a bona fide eating place. Must make actual and substantial sales of meals, during the normal meal hours that they are open, at least five days a week. Normal mealtimes are 6:00 a.m. - 9:00 a.m., 11:00 a.m. - 2:00 p.m., and 6:00 p.m. - 9:00 p.m. Premises that are not open five days a week must serve meals on the days they are open. Minors are allowed on the premises.
48	ON SALE GENERAL - PUBLIC PREMISES - (Bar, Night Club) Authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.
49	ON SALE GENERAL - SEASONAL - Authorizes the same privileges and restrictions as provided for a Type 47 license except it is issued for a specific season. Inclusive dates of operation are listed on the license certificate.



LICENSE TYPE	DESCRIPTION
51	CLUB - Authorizes the sale of beer, wine and distilled spirits, to members and guests only, for consumption on the premises where sold. No off-sale privileges. Food service is not required. Minors are allowed on the premises.
52	VETERAN'S CLUB - Authorizes the sale of beer, wine and distilled spirits, to members and guests only, for consumption on the premises where sold. Authorizes the sale of beer and wine, to members and guest only, for consumption off the licensed premises. Food service is not required. Minors are allowed on the premises.
57	SPECIAL ON SALE GENERAL - Generally issued to certain organizations who cannot qualify for club licenses. Authorizes the sale of beer, wine and distilled spirits, to members and guests only, for consumption on the premises where sold. Authorizes the sale of beer and wine, to members and guests only, for consumption off the licensed premises. Food service is not required. Minors are allowed on the premises.
59	ON SALE BEER AND WINE – SEASONAL - Authorizes the same privileges as a Type 41. Issued for a specific season. Inclusive dates of operation are listed on the license certificate.
60	ON SALE BEER – SEASONAL - Authorizes the sale of beer only for consumption on or off the premises where sold. Issued for a specific season. Inclusive dates of operation are listed on the license certificate. Wine or distilled spirits may not be on the premises. Minors are allowed on the premises.
61	ON SALE BEER – PUBLIC PREMISES - (Bar, Tavern) Authorizes the sale of beer only for consumption on or off the licensed premises. Wine or distilled spirits may not be on the premises. Minors are not allowed to enter and remain (warning signs required). Food service is not required.
67	BED AND BREAKFAST INN - Authorizes the sale of wine purchased from a licensed winegrower or wine wholesaler only to registered guests of the establishment for consumption on the premises. No beer or distilled spirits may be on the premises. Wine shall not be given away to guests, but the price of the wine shall be included in the price of the overnight transient occupancy accommodation. Removal of wine from the grounds is not permitted. Minors are allowed on the premises.
70	ON SALE GENERAL – RESTRICTIVE SERVICE - Authorizes the sale or furnishing of beer, wine and distilled spirits for consumption on the premises to the establishment's overnight transient occupancy guests or their invitees. This license is normally issued to "suite-type" hotels and motels, which exercise the license privileges for guests' "complimentary" happy hour. Minors are allowed on the premises.
75	ON SALE GENERAL – BREWPUB - (Restaurant) Authorizes the sale of beer, wine and distilled spirits for consumption on a bona fide eating place plus a limited amount of brewing of beer. Also authorizes the sale of beer and wine only for consumption off the premises where sold. Minors are allowed on the premises.
80	BED AND BREAKFAST INN – GENERAL - Authorizes the sale of beer, wine and distilled spirits purchased from a licensed wholesaler or winegrower only to registered guests of the establishment for consumption on the premises. Alcoholic beverages shall not be given away to guests, but the price of the alcoholic beverage shall be included in the price of the overnight transient occupancy accommodation. Removal of alcoholic beverages from the grounds is not permitted. Minors are allowed on the premises.



SPECIAL EVENTS

The Department also issues licenses and authorizations for the retail sale of beer, wine and distilled spirits on a temporary basis for special events. The most common are listed below. Other less common ones are found in Business and Professions Code Section 24045.2, et seq.

SPECIAL DAILY BEER AND/OR WINE LICENSE - (Form ABC-281) Authorizes the sale of beer and/or wine for consumption on the premises where sold. No off-sale privileges. Minors are allowed on the premises. May be revoked summarily by the Department if, in the opinion of the Department and/or the local law enforcement agency, it is necessary to protect the safety, welfare, health, peace and morals of the people of the State. In some instances, the local ABC office may require the applicant to obtain prior written approval of the local law enforcement agency. Issued to non-profit organizations. (Rule 59, California Code of Regulations)

DAILY ON SALE GENERAL LICENSE - (Form ABC-281) Authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. No off-sale privileges. Minors are allowed on the premises. May be revoked summarily by the Department if, in the opinion of the Department and/or the local law enforcement agency, it is necessary to protect the safety, welfare, health, peace and morals of the people of the State. In some instances, the local ABC office may require the applicant to obtain prior written approval of the local law enforcement agency. Issued to political parties or affiliates supporting a candidate for public office or a ballot measure or charitable, civic, fraternal or religious organizations. (Section 24045.1 and Rule 59.5 California Code of Regulations)

CATERING AUTHORIZATION - (Form ABC-218) Authorizes Type 47, 48, 51, 52, 57, 75 and 78 licensees (and catering businesses that qualify under Section 24045.12) to sell beer, wine and distilled spirits for consumption at conventions, sporting events, trade exhibits, picnics, social gatherings, or similar events. Type 47, 48 and 57 licensees may cater alcoholic beverages at any ABC-approved location in the State. Type 51 and 52 licensees may only cater alcoholic beverages at their licensed premises. All licensees wishing to cater alcoholic beverages must obtain prior written authorization from the Department for each event. At all approved events, the licensee may exercise only those privileges authorized by the licensee's license and shall comply with all provisions of the ABC Act pertaining to the conduct of on-sale premises and violation of those provisions may be grounds for suspension or revocation of the licensee's license or permit, or both, as though the violation occurred on the licensed premises. (Section 23399 and Rule 60.5 California Code of Regulations)

EVENT AUTHORIZATION - (Form ABC-218) Authorizes Type 41, 42, 47, 48, 49, 57, 75 and 78 licensees to sell beer, wine and distilled spirits for consumption on property adjacent to the licensed premises and owned or under the control of the licensee. This property shall be secured and controlled by the licensee and not visible to the general public. *The licensee shall obtain prior approval of the local law enforcement agency.* At all approved events, the licensee may exercise only those privileges authorized by the licensee's license and shall comply with all provisions of the ABC Act pertaining to the conduct of on-sale premises (including any license conditions) and violations of those provisions may be grounds for suspension or revocation of the licensee's license or permit, or both, as though the violation occurred on the licensed premises. (Section 23399)

WINE SALES EVENT PERMIT - (Form ABC-239) Authorizes Type 02 licensees to sell bottled wine produced by the winegrower for consumption off the premises where sold and only at fairs, festivals or cultural events sponsored by designated tax exempt organizations. The licensee must notify the city and/or county where the event is being held and obtain approval from ABC for each event (Form ABC-222). The licensee must also comply with all restrictions listed in Business and Professions Code Section 23399.6.

Note:

1. "Minor" means any person under 21 years of age.
2. Consult Section 25663(b) regarding age of employees in off-sale premises; consult Sections 25663(a) and 25663.5 regarding age of employees in on-sale premises.
3. In certain situations, ABC may place reasonable conditions upon a license, such as restrictions as to hours of sale, employment of designated persons, display of signs, restrictions on entertainment or dancing, etc. If a license has been conditioned, it will be endorsed as such on the face of the license. (Conditional licenses, Sections 23800-23805.)
4. Licensees whose license allows minors on the premises may have a "house policy" restricting minors from entering certain areas of the premises or prohibiting minors in the premises during certain hours.
5. This handout contains only abbreviated information. Contact your local ABC office for full information before doing anything which may jeopardize your license. Also available from the ABC: Quick Summary of Selected ABC Laws (form ABC-608); Alcoholic Beverage Control Act (complete laws); Rules & Regulations; and P-90 (describes privileges of non-retail licenses).



Bethel Lutheran Church

Rev. STEPHEN E. CARLSON

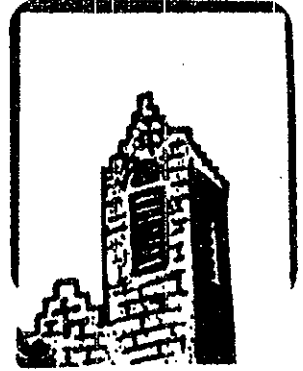
187 North Broadway



Fresno, Calif. 93701

Telephone

(559) 264-5385



October 26, 2010

McKenzie Contreras
2600 Fresno St., Room 3076
Fresno, CA 93721

Dear Ms. Contreras:

I am following up my October 26th phone call with you, regarding the proposed nightclub at the corner of Fulton and Divisadero.

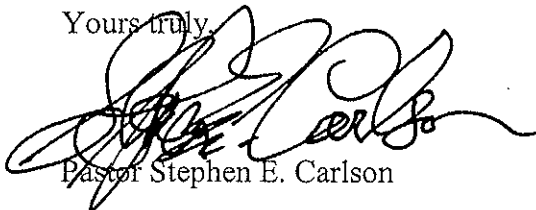
I respectfully request a hearing on this matter. The Southwest policing district has the highest number of police service calls, and the last thing we need is a nightclub that will only generate more. In addition, Lowell Elementary School and Youth for Christ are just down the street, not to mention Evangel Home, and a nightclub will have a negative impact on all of them. Since the proposed nightclub sits on the edge of a residential area, I am also concerned about the traffic and parking issue.

While I have been told that only the immediate neighbors (within 500 feet, I believe) are normally notified of this proposed nightclub, its impact goes way beyond that distance. Such a business generates noise, trash, parking and traffic congestion, and crime, that spreads way beyond 500 feet.

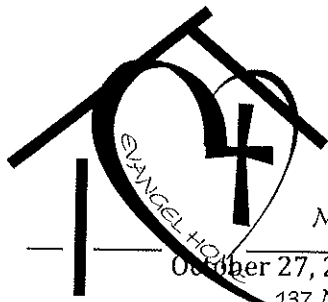
I would also like to know more about the owner, Jaime Gonzales. What other businesses does he own, and what is his track record in running them?

I look forward to your response.

Yours truly,



Pastor Stephen E. Carlson



Evangel Home

Ministering to Homeless Women & Children Since 1955

October 27, 2010

137 N. Yosemite Ave. † Fresno, CA 93701-1639 † (559) 264-4714 † Fax (559) 498-8324 † www.evangelhome.org

John M. Dugan, AICP Director
Development and Resource Management Department
2600 Fresno Street Room 3076
Fresno, CA 93721

Re: Conditional Use Permit #C-10-143

Dear Mr. Dugan,

I support the Downtown Revitalization efforts from the perspective of a long-time Fresnan and as the director of Evangel Home. However, I am very concerned about the denigration of an existing neighborhood in order to accommodate a developer's desire to bring a nightclub to the area. Of all the things that might improve an area, a nightclub is not in anyone's Top Thoughts.

On October 26, an Evangel Home board member and I met with two representatives of the proposed club (Tony Martin and Lizetta Canchola). Our concerns and their responses are as follows:

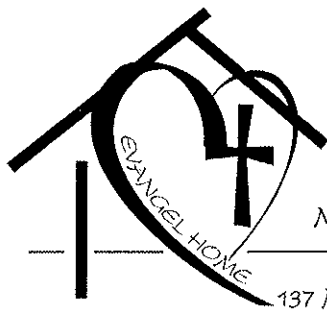
1. **PARKING CONCERN** not just about parking for their events, but for the congestion and increased traffic at Fulton and Divisadero. Now that Fulton and VanNess are each one lane for cars and one for bikes, plus curb parking, the drive down these streets is increasingly hazardous.

PARKING RESPONSE: The Club owners have signed a 10-year contract with the African American Museum. They plan to have valet parking, but nothing to prevent people from parking on side streets.

2. **NEIGHBORHOOD INFLUENCE CONCERN:** High poverty, high crime yet neighbors who work hard to maintain homes, minimize problems and maximize opportunities. The Club is surrounded by at least 5 non-profit social agencies, two neighborhood churches, numerous local businesses and is 0.2 mile from Lowell Elementary School. The Salvation Army operates several programs for kids at night and is just across the street from the Club. What possible benefit is the Club to the neighborhood? Yes, it has the possibility to generate money for the City and the Club, but does the neighborhood have to be the unwilling partner for this ill-advised venture?

NEIGHBORHOOD INFLUENCE RESPONSE: Club wants to be a good neighbor and cultivate a culture of respect among patrons, musicians and neighbors. No specifics offered on how this will be done and acknowledgement that perhaps someone should have let people know what was being planned. I mentioned that not one business or non-profit north of Divisadero knew about the Club. Not even Catholic Charities received a CUP copy.

3. **NOISE CONCERN:** Since this is a live-venue, noise is a concern.



Evangel Home

Ministering to Homeless Women & Children Since 1955

137 N. Yosemite Ave. † Fresno, CA 93701-1639 † (559) 264-4714 † Fax (559) 498-8324 † www.evangelhome.org

NOISE RESPONSE: Noise will be controlled. Building is being sound proofed, but if noise leaks out we can call the managers/owners anytime and they will take care of it. The Club will send me a schedule of events and I was told if any are a concern "We can think about cancelling them." I told Mr. Martin, I didn't believe him.

I am also very concerned about the lack of honesty with this entire project. What is it really supposed to be?

--CUP says restaurant/nightclub. Club says not geared for a restaurant for a while and that it isn't really a nightclub but that the City has no other category for it.

--Fresno Bee says the Club can accommodate 500 patrons and even more. Club representatives say they will usually have only 200-250.

--CUP says hours will be 5 p.m. to 2 a.m. Club reps spoke of having a Sunday brunch sometime in the future; perhaps a Christian band some night -- brunch, Christian band, liquor?

A key reason many of us are suspicious of this project is because of the Iron Bird development. We welcomed the development and the housing opportunity, but the artwork became a source of contention that now contributes to our lack of confidence in both the City and the developers. Nowhere on any drawing, rendering or plan did we think or see that there would be a child-like figure dangling over the street. We were told not even the developer "ordered" the specific art. Yet it arrived that way, and it's public art so what can be done?

That's the question this neighborhood now asks you, the planning commissioners. What can be done?

Thank you,


Gerre Brenneman
Executive Director

Cc: Jaime Holt (Chair), Serop Torossian (Vice Chair), Paul E. Caprioglio, Rama Dawar, Andy Hansen-Smith, Luisa Medina, Rojelio Vasquez



Iglesia de Jesucristo

Palabra Miel Fresno

843 E. Divisadero Street, Fresno, CA 93701

October 17, 2010

This letter is in regards to the facility that is being opened at 875 E. Divisadero Street which is nearly next door to us on the same block.

Our members are concerned because we have a program to help recovering alcoholics and we also have families with minor children. Our services are conducted on Tuesdays and Saturdays from 7:00 p.m. to 10:00 p.m., and on Sundays from 11:00 a.m. to 2:00 p.m. This facility will be an unnecessary hardship on our congregation and members, not to mention will cause parking problems because of the lack of parking spaces.

Alcohol will also be served at this location. This general area is a residential location for families including four churches that have been established for the purpose of having a safe environment.

We as members and tax payers of this community strongly disapprove of the opening of this establishment.

SIGNATURE (Firma)	PRINTED NAME (Nombre)
1.	Ruth DePaZ
2.	Gerardo Zuniga
3.	Mandel Salmaran
4. Oscar Ortiz	Oscar Ortiz
5. Eddie Zuniga	Eddie Zuniga
6. Nestor Ramirez	Nestor Ramirez
7. Erendida Cuyuch	Erendida Cuyuch
8. Mary Montes	Mary Montes
9. Jonathan DePaZ	Jonathan DePaZ
10. Raquel Valdez	Raquel Valdez



Iglesia de Jesucristo

Palabra Miel Fresno

843 E. Divisadero Street, Fresno, CA 93701

October 17, 2010

This letter is in regards to the facility that is being opened at 875 E. Divisadero Street which is nearly next door to us on the same block.

Our members are concerned because we have a program to help recovering alcoholics and we also have families with minor children. Our services are conducted on Tuesdays and Saturdays from 7:00 p.m. to 10:00 p.m., and on Sundays from 11:00 a.m. to 2:00 p.m. This facility will be an unnecessary hardship on our congregation and members, not to mention will cause parking problems because of the lack of parking spaces.

Alcohol will also be served at this location. This general area is a residential location for families including four churches that have been established for the purpose of having a safe environment.

We as members and tax payers of this community strongly disapprove of the opening of this establishment.

SIGNATURE (Firma)

PRINTED NAME (Nombre)

1. Sara Cuyuch
2. Ivan Miguel
3. Yasenia Ramirez
4. Xixmena Cuyuch
5. Lindsay Gomez
6. Stephanie
7. Daisy Cruz
8. Eliana Torres
9. Joshua De Paz
10. Jose Luis Luis Rangel

- Sara Cuyuch
- Ivan Miguel
- Yasenia Ramirez
- Xixmena Cuyuch
- Lindsay Gomez
- Stephanie
- Daisy Cruz
- Eliana Torres
- Joshua De Paz
- Jose Luis Rangel



Iglesia de Jesucristo

Palabra Miel Fresno

843 E. Divisadero Street, Fresno, CA 93701

October 17, 2010

This letter is in regards to the facility that is being opened at 875 E. Divisadero Street which is nearly next door to us on the same block.

Our members are concerned because we have a program to help recovering alcoholics and we also have families with minor children. Our services are conducted on Tuesdays and Saturdays from 7:00 p.m. to 10:00 p.m., and on Sundays from 11:00 a.m. to 2:00 p.m. This facility will be an unnecessary hardship on our congregation and members, not to mention will cause parking problems because of the lack of parking spaces.

Alcohol will also be served at this location. This general area is a residential location for families including four churches that have been established for the purpose of having a safe environment.

We as members and tax payers of this community strongly disapprove of the opening of this establishment.

SIGNATURE (Firma)

PRINTED NAME (Nombre)

1. Miguel Meppa
2. Teresa Miguel
3. Arlene Robledo
4. Christian Miguel
5. Adasa Garzon
6. Ruth Garzon
7. Edith Ramirez
8. Sara
9. Samuel Ortiz
10. Nathaniel

1. Miguel Meppa
2. Teresa Miguel
3. Arlene Robledo
4. Christian Miguel
5. Adasa Garzon
6. Ruth Garzon
7. Edith Ramirez
8. Chavez
9. Samuel Ortiz
10. Nathaniel



Iglesia de Jesucristo

Palabra Miel Fresno

843 E. Divisadero Street, Fresno, CA 93701

October 17, 2010

This letter is in regards to the facility that is being opened at 875 E. Divisadero Street which is nearly next door to us on the same block.

Our members are concerned because we have a program to help recovering alcoholics and we also have families with minor children. Our services are conducted on Tuesdays and Saturdays from 7:00 p.m. to 10:00 p.m., and on Sundays from 11:00 a.m. to 2:00 p.m. This facility will be an unnecessary hardship on our congregation and members, not to mention will cause parking problems because of the lack of parking spaces.

Alcohol will also be served at this location. This general area is a residential location for families including four churches that have been established for the purpose of having a safe environment.

We as members and tax payers of this community strongly disapprove of the opening of this establishment.

SIGNATURE (Firma)

PRINTED NAME (Nombre)

1. Elcisa Zuniga
2. Armando de Paul
3. _____
4. Enrique
5. Modesto Rangel
6. Berta Mejia Pizarro
7. Paul Ortiz G.
8. Adrian Perez
9. Maria L. Perez
10. Dennis Cuyuch Perez

- Elcisa Zuniga
- Eida Torres
- Armando de Paul
- Enrique Miguel
- Modesto Rangel
- Berta Mejia
- Paul Ortiz G.
- Adrian Perez
- Maria Perez
- Dennis E. Cuyuch Perez



Iglesia de Jesucristo

Palabra Miel Fresno

843 E. Divisadero Street, Fresno, CA 93701

October 17, 2010

This letter is in regards to the facility that is being opened at 875 E. Divisadero Street which is nearly next door to us on the same block.

Our members are concerned because we have a program to help recovering alcoholics and we also have families with minor children. Our services are conducted on Tuesdays and Saturdays from 7:00 p.m. to 10:00 p.m., and on Sundays from 11:00 a.m. to 2:00 p.m. This facility will be an unnecessary hardship on our congregation and members, not to mention will cause parking problems because of the lack of parking spaces.

Alcohol will also be served at this location. This general area is a residential location for families including four churches that have been established for the purpose of having a safe environment.

We as members and tax payers of this community strongly disapprove of the opening of this establishment.

SIGNATURE (Firma)	PRINTED NAME (Nombre)
1.	ELOY'S CUYUCH
2. Damaris Cuyuch	Damaris Cuyuch
3.	Estela Miguel
4.	Eufrosina Ros
5. Yaguclin	Yaguclin
6. Maricela Miguel	Maricela Miguel
7. Jerome Velasquez. Romero	Jerome Velasquez.
8. Pedro Cruz	Pedro Cruz
9. Elizabeth A. Gomez	Elizabeth A. Gomez
10.	Fabiola Ortiz



Iglesia de Jesucristo

Palabra Miel Fresno

843 E. Divisadero Street, Fresno, CA 93701

October 17, 2010

This letter is in regards to the facility that is being opened at 875 E. Divisadero Street which is nearly next door to us on the same block.

Our members are concerned because we have a program to help recovering alcoholics and we also have families with minor children. Our services are conducted on Tuesdays and Saturdays from 7:00 p.m. to 10:00 p.m., and on Sundays from 11:00 a.m. to 2:00 p.m. This facility will be an unnecessary hardship on our congregation and members, not to mention will cause parking problems because of the lack of parking spaces.

Alcohol will also be served at this location. This general area is a residential location for families including four churches that have been established for the purpose of having a safe environment.

We as members and tax payers of this community strongly disapprove of the opening of this establishment.

SIGNATURE (Firma)

1. [Signature]
2. [Signature]
3. [Signature]
4. [Signature]
5. [Signature]
6. [Signature]
7. [Signature]
8. [Signature]
9. [Signature]
10. [Signature]

PRINTED NAME (Nombre)

1. Jose DE Jesus Campos
2. Samuel Argueta
3. Carmen Argueta
4. Delia Ramirez
5. JUAN HERNANDEZ
6. MAURICIO BATZ
7. Marta Lujan
8. Isabel Campos
9. Sheyla Argueta
10. Albertina Lujan



Iglesia de Jesucristo

Palabra Miel Fresno

843 E. Divisadero Street, Fresno, CA 93701

October 17, 2010

This letter is in regards to the facility that is being opened at 875 E. Divisadero Street which is nearly next door to us on the same block.

Our members are concerned because we have a program to help recovering alcoholics and we also have families with minor children. Our services are conducted on Tuesdays and Saturdays from 7:00 p.m. to 10:00 p.m., and on Sundays from 11:00 a.m. to 2:00 p.m. This facility will be an unnecessary hardship on our congregation and members, not to mention will cause parking problems because of the lack of parking spaces.

Alcohol will also be served at this location. This general area is a residential location for families including four churches that have been established for the purpose of having a safe environment.

We as members and tax payers of this community strongly disapprove of the opening of this establishment.

SIGNATURE (Firma)

PRINTED NAME (Nombre)

1. Jesus O. Campos
2. Evelio Zuniga
3. Fernando Campos
4. Fernando Lima
5. M &
6. [Signature]
7. [Signature]
8. [Signature]
9. Batz
10. Salvadora de Campos

- Jesus Octavio Campos
- Evelio Zuniga
- Fernando Campos
- Marino Garzon
- Tangulino Ruiz P.
- Daniel Gomez
- Rosadina Batz
- Salvadora de Campos



Iglesia de Jesucristo

Palabra Miel Fresno

843 E. Divisadero Street, Fresno, CA 93701

October 17, 2010

This letter is in regards to the facility that is being opened at 875 E. Divisadero Street which is nearly next door to us on the same block.

Our members are concerned because we have a program to help recovering alcoholics and we also have families with minor children. Our services are conducted on Tuesdays and Saturdays from 7:00 p.m. to 10:00 p.m., and on Sundays from 11:00 a.m. to 2:00 p.m. This facility will be an unnecessary hardship on our congregation and members, not to mention will cause parking problems because of the lack of parking spaces.

Alcohol will also be served at this location. This general area is a residential location for families including four churches that have been established for the purpose of having a safe environment.

We as members and tax payers of this community strongly disapprove of the opening of this establishment.

SIGNATURE (Firma)

1. Adriana Mejia
2. Oscar Bames
3. José Luis Orellana
4. Tony Perez
5. Pedro Torres
6. _____
7. _____
8. _____
9. _____
10. _____

PRINTED NAME (Nombre)

- Adriana Mejia
- Oscar Bames
- José Luis Orellana
- Tony Perez
- Pedro Torres
- _____
- _____
- _____
- _____
- _____



ASAMBLEA APOSTOLICA DOMINGO

110 N. Yosemite Street, Fresno, California 93701

October 17, 2010

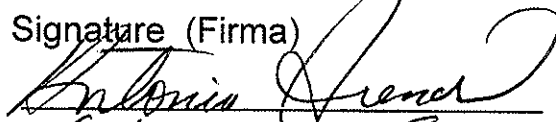
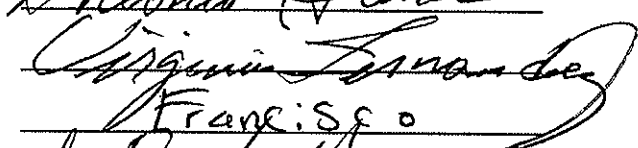
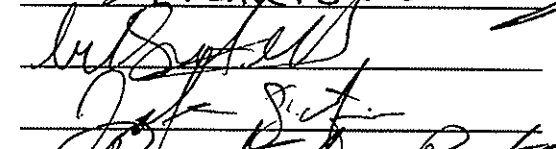
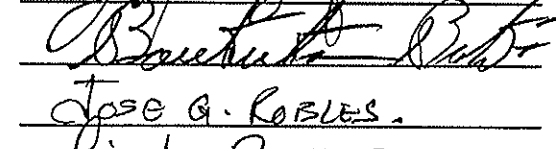
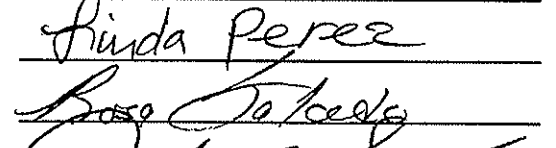
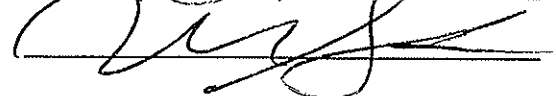


This letter is about the business being opened in our neighborhood at 875 E. Divisadero.

Our members feel concern over a number of issues. These issues include:

- There is a complete absence of adequate parking.
- We understand alcohol will be served at this location. This is of great concern to us because our congregation includes children and adult individuals (who are recovering from addictions).

We commend the city for bringing more families into downtown Fresno, but this type of business is NOT family friendly. Our members strongly disapprove of this change to our neighborhood.

	Printed Name (Nombre)
1.	Antonia Arenas
2.	Virginia Fernandez
3.	Fco J Rojas
4.	Isael Santillan
5.	Jonathan Ontiveros
6.	Roberto Bautista
7.	Jose Robles
8.	Hinda Perez
9.	Rosa Salcedo
10.	Viridiana Santillan

	Signature (Firma)
	
	
	
	
	
	
	
	



ASAMBLEA APOSTOLICA DOMINGO

110 N. Yosemite Street, Fresno, California 93701

October 17, 2010

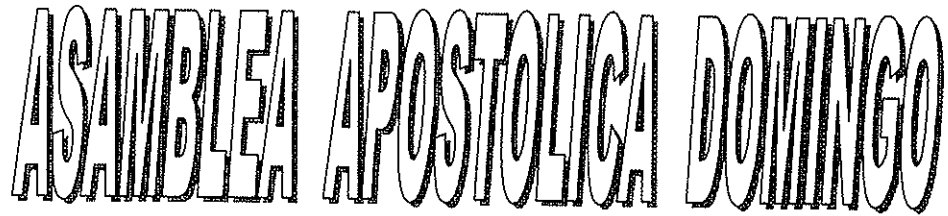
This letter is about the business being opened in our neighborhood at 875 E. Divisadero.

Our members feel concern over a number of issues. These issues include:

- There is a complete absence of adequate parking.
- We understand alcohol will be served at this location. This is of great concern to us because our congregation includes children and adult individuals (who are recovering from addictions).

We commend the city for bringing more families into downtown Fresno, but this type of business is NOT family friendly. Our members strongly disapprove of this change to our neighborhood.

Printed Name (Nombre)	Signature (Firma)
1. <u>Rafael Perez</u>	<u>[Signature]</u>
2. <u>Rafael Perez</u>	<u>Maria G. Mendez</u>
3. <u>Inocencio Molina</u>	<u>Georgina Perez</u>
4. <u>Trinidad Molina</u>	<u>Ronald Lopez</u>
5. <u>Marcela Marquez</u>	<u>Roby Lopez</u>
6. <u>José A. Marquez</u>	<u>Esther Moreno</u>
7. <u>Gloria Flores</u>	<u>Olga Hays</u>
8. <u>Daisy Salcedo</u>	<u>[Signature]</u>
9. <u>Ruth Pacheco</u>	<u>Marissa Lopez</u>
10. <u>Gabriela Torres</u>	<u>[Signature]</u>



October 17, 2010

- There is a complete absence of adequate parking.
- We understand alcohol will be served at this location. This is of great concern to us because our congregation includes children and adult individuals (who are recovering from addictions).

1. Cidencio. Mr - end
2. Hector Garza Jr
3. Raymond Micro
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

Mike Dwyer
Raymond Miano



THE SALVATION ARMY

P.O. Box 11730, Fresno, CA 93775

October 28, 2010

**Fresno County Coordinator
& Citadel Corps Officers:**
Captain Dwaine Breazeale
Captain Deborah Breazeale
Captain Kristin McConnell

Fresno Temple Corps Officer:
Major Moses Guerrero
Major Alicia Guerrero

Laotian Ministries:
James Phetphouvong

Family Service Center:
1752 Fulton Street
Fresno, CA 93721
(559) 233-0138
Fax: 497-6616

Gabelcrest Residence:
Phone & Fax: 226-6110

Clovis Corps Officers:
Captain Xia Xiong
Captain Sia Xiong

**Fresno Adult Rehabilitation
Center Administrator:**
Terry Skelton

**Central Valley
Regional Board:**
David St. Louis, Chairperson
Joe Cole, Vice Chair
Steve Rau, Sec./Treas.
Jim Burgess
Rudy Castillo
Roy Chitwood
Justin Fortmeyer
Nancy Larson
Scott Lisle
Robert Markarian
Jeremy Price
Richard Ribarich
Martin Temple
Paula Vang
Gary Warner
Hap Wood

Emeritus /Life Members:
Eddie Evans
Annette LaRue

Founder:
William Booth

International Leader:
General Shaw Clifton

Territorial Commander:
Comm. Phillip Swyers

Divisional Commander:
Lt. Col. Joe Posillico

City of Fresno
Development and Resource Management Department
2800 Fresno Street, Room 3043
Fresno, CA 93721

Re: Conditional Use Permit Application NO C-10-143

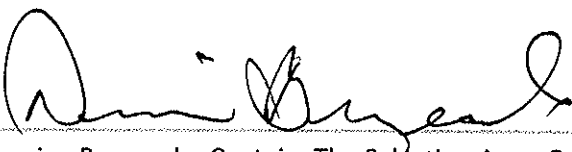
John M. Dugan, AICP, Director

This letter is to appeal and protest the issuance of Conditional Use Permit NO. C-10-143. We have three (3) primary concerns that we do not see addressed.

1. It is our understanding that off street parking is required for the use as proposed. There is no off street parking available at this location. Even should this business secure an agreement with another property owner specifically for the granting of this permit, that agreement could be changed or revoked at any time, thereby creating a need for the patrons of this business to look for parking in other areas.
2. This proposed club/event center, with a full service restaurant/bar/nightclub liquor license, would be within 100 feet of residential development. The additional noise, crowds and traffic are undesirable in a residential area. Also, Divisadero has now become a two lane street and the traffic congestion has already increased.
3. Our church, The Salvation Army Fresno Citadel, is approximately 100 yards from the proposed club/event center. We have children with scouting/troop programs, family night programs and teen night programs at least three nights each week during the hours of operation suggested by this CUP. We are concerned that the additional traffic and crowds would be detrimental or harmful for the children in our programs. We also deal with alcohol and drug addiction recovery and prevention on a daily basis and this club/event center would provide undue stress on the individuals and families in recovery.

We would therefore like to appeal and protest the granting of the Conditional Use Permit NO. C-10-143. Please inform us of the hearing date so that we can attend.


David St. Louis, The Salvation Army Central Valley Regional Board Chair


Dwaine Breazeale, Captain, The Salvation Army Fresno County Coordinator

RECEIVED
NOV 10 2010
Planning Division
Planning & Development Dept CITY OF FRESNO
BUILDING & SAFETY SERVICES

Conditions of Approval

CITY OF FRESNO
DEVELOPMENT AND RESOURCE MANAGEMENT DEPARTMENT

CONDITIONS OF APPROVAL

OCTOBER 14, 2010

CONDITIONAL USE PERMIT APPLICATION NO. C-10-143

NOTICE TO PROJECT APPLICANT

In accordance with the provisions of Government Code Section 66020(d)(1), the imposition of fees, dedication, reservations or exactions for this project are subject to protest by the project applicant at the time of approval or conditional approval of the development or within 90 days after the date of imposition of fees, dedications, reservation, or exactions imposed on the development project.

This notice does not apply to those fees, dedications, reservations, or exactions which were previously imposed and duly noticed; or, where no notice was previously required under the provisions of Government Code Section 66020(d)(1) in effect before January 1, 1997.

PART A - PROJECT INFORMATION

- 1) Assessor's Parcel No: 459-305-07
- 2) Job Address: 875 East Divisadero Street
- 3) Street Location: Located on the northwest corner of East Divisadero and North Fulton Streets
- 4) Existing Zoning: C-4 (*Central Trading*) zone district
- 5) Planned Land Use: Commercial/Mixed Use Level 1 (Central Area)
- 6) Zone Map: 2349
- 7) Plan Areas: Central Area Community Plan & Fulton/Lowell Specific Plan
- 8) Project Description: Conditional Use Permit Application No. C-10-143, filed by Jaime Gonzalez, is requesting authorization to establish a live music venue and full service restaurant/bar/nightclub with a State of California Alcoholic Beverage Control Type 48 license (*sale of beer, wine, and distilled spirits for consumption on the premises where sold*) and to operate from 5 p.m. to 2 a.m. The nightclub is proposed within an existing two-story commercial office building that has been vacant for 17 years.

PART B – GENERAL CONDITIONS AND REQUIREMENTS

The Development and Resource Management Department, on October 14, 2010, approved the special permit application subject to the enclosed list of conditions and Exhibits A, E, and F dated October 4, 2010.

This project is exempt under Section 15301/Class 1 of the California Environmental Quality Act (CEQA) Guidelines. The proposed project was determined to be exempt from CEQA by the Development and Resource Management Department on October 13, 2010.

IMPORTANT: PLEASE READ CAREFULLY

Please note that this project may be subject to a variety of discretionary conditions of approval. These include conditions based on adopted City plans and policies, those determined through site plan review and environmental assessment essential to mitigate adverse effects on the environment including the health, safety, and welfare of the community, and recommended conditions for development that are not essential to health, safety, and welfare, but would on the whole enhance the project and its relationship to the neighborhood and environment.

Discretionary conditions of approval are listed in the last section of this list of conditions under the heading "Part F - Miscellaneous" and may be appealed. All code requirements, however, are mandatory and may only be modified by variance, provided the findings pursuant to Fresno Municipal Code (FMC) Section 12-405.A can be made.

All discretionary conditions of approval will ultimately be deemed mandatory unless appealed in writing to the Development and Resource Management Department Director within 15 days.

In the event you wish to appeal the Director's decision or discretionary conditions of approval, you may do so by filing a written appeal with the Director. The appeal shall include a statement of your interest in or relationship to the subject property, the decision or action appealed and specific reasons why you believe the decision or action appealed should not be upheld. Your appeal must be filed by **October 29, 2010.**

Approval of this special permit shall be considered null and void in the event of failure by the applicant and/or the authorized representative, architect, engineer, or designer to disclose and delineate all facts and information relating to the subject property and the proposed development including, but not limited to, the following:

1. All existing and proposed improvements including but not limited to buildings and structures, signs and their uses, trees, walls, driveways, outdoor storage, and open land use areas on the subject property and all of the preceding which are located on adjoining property and may encroach on the subject property;
2. All public and private easements, rights-of-way and any actual or potential prescriptive easements or uses of the subject property; and,

3. Existing and proposed grade differentials between the subject property and adjoining property zoned or planned for residential use.

Approval of this special permit may become null and void in the event that development is not completed in accordance with all the conditions and requirements imposed on this special permit, the Zoning Ordinance, and all Public Works Standards and Specifications. The Development and Resource Management Department shall not assume responsibility for any deletions or omissions resulting from the special permit review process or for additions or alterations to construction plans not specifically submitted and reviewed and approved pursuant to this special permit or subsequent amendments or revisions. **(Include this note on the site plan.)**

No uses of land, buildings, or structures other than those specifically approved pursuant to this site plan shall be permitted. **(Include this note on the site plan.)**

Transfer all red line notes, etc., shown on Exhibits Exhibits A, E, and F dated October 4, 2010 to the final plans. CORRECTIONS SHALL INCLUDE ALL THOSE LISTED IN THIS DOCUMENT AND THOSE LISTED IN THE CORRECTION LIST PROVIDED BY THE PLAN CHECK PROCESS.

The exercise of rights granted by this special permit shall commence by **October 14, 2014** (four years from the date of Director approval). There is no exception.

To complete the back-check process for building permits relative to planning and zoning issues, submit two copies of this corrected, final site plan, together with two copies of the elevations, landscape, and irrigation plans, and any fees and title reports for required covenants and any required studies or analyses to McKencie Contreras in the Development Services Division for final review and approval, 15 days before applying for building permits. It may be necessary to resubmit these "corrected exhibits" a second time if not all the conditions have been met or are not properly depicted. Upon approval of the "corrected exhibits" by the Development Services Division, you must place these exhibits in the plan check set and the Development Services Division, along with Traffic Planning, will sign and stamp these exhibits. Please bring one additional copies of the site plan exhibit(s) to this appointment so that both the Development Services Division and Traffic Planning have a final signed-off copy of the site plan.

Copies of the final approved site plan, elevations, landscape, and irrigation plans stamped by the Development Services Division **must be substituted** for unstamped copies of same in each of the sets of construction plans submitted for plan check prior to issuance of building permits. The final approved site plan must also include all corrections identified in the plan check process.

Be advised that on-site inspections will not be authorized unless the final stamped approved site plan, elevations, landscape, and irrigation plans are included in the plan check file copy.

Please contact McKencie Contreras at (559) 621-8066 or via e-mail at McKencie.Contreras@fresno.gov for an appointment for final sign-off for building permits following your receipt and substitution of the copies of the stamped, corrected, approved exhibits in the plan check sets.

PART C – PUBLIC IMPROVEMENT REQUIREMENTS

The following requirements are based on city records and the accuracy of the existing and proposed on-site and off-site conditions depicted on the exhibits submitted. Requirements not addressed due to omission or misrepresentation of information, for which this review process is dependent, will be imposed whenever such conditions are disclosed.

Questions relating to dedications, street improvements or off-street parking lot geometrics may be directed to Mario Rocha at (559) 621-8684/ Mario.Rocha@fresno.gov or Ann Lillie at (559) 621-8690/ Ann.Lillie@fresno.gov of the Public Works Department, Engineering Division, Traffic Planning Section.

1) STREET ENCROACHMENT PERMITS, DEDICATIONS AND VACATIONS

- a) Exhibit A is required to include all street furniture, e.g.: public utility poles and boxes, guy wires, signs, fire hydrants, bus stop benches, mail boxes, news stands, trash receptacles, tree wells, etc., within the existing and proposed public rights-of-way.
 - (i) A minimum 4-foot wide path of travel along the public sidewalk on all frontages of the property as required by Title 24 of the California Administration Code is required. An on-site pedestrian easement may be required if Title 24 requirements can not be met within the existing public rights-of-way.
- b) ENCROACHMENT PERMITS. The construction of any overhead, surface or sub-surface structures and appurtenances in the public rights-of-way is prohibited unless an encroachment permit is approved by the City Engineer. For encroachment permit information, contact the Public Works Department, Engineering Services Division at (559) 621-8693. Encroachment permits must be approved **prior** to issuance of building permits.
- c) DEDICATIONS. The following dedication requirements must be satisfied prior to the issuance of building permits:
 - (i) No dedications required at this time.
- d) VACATIONS. The following vacation requirements must be satisfied prior to issuance of building permits:
 - (i) No vacations required at this time.

2) STREET IMPROVEMENTS

- a) All improvements shall be constructed in accordance with the Standard Specifications and Standard Drawings of the City of Fresno, Public Works Department. Dedication shall be sufficient to accommodate additional paving and any other grading or transitions as necessary based on a 45 MPH design speed for Collectors and 55 MPH for Arterials. Utility poles, street lights, signals, etc. shall be relocated as determined by the City Engineer. The performance of any work within the public street rights-of-way (including pedestrian and utility easements) requires a STREET WORK PERMIT prior to commencement of work. Contact the City of Fresno Public Works Department, Engineering Services Section at (559) 621-8686 for detailed information. All required street improvements must be completed and accepted by the city prior to occupancy.
- b) Repair all damaged and/or off grade off-site concrete improvements as determined by the Public Works Department, Construction Management Division. For additional information call (559) 621-5500.

3) WATER AND SEWER SERVICE REQUIREMENTS

- a) Connection to the City of Fresno water system is required.
- b) Connection to the City of Fresno sewer system is required.
- c) City of Fresno water and sewer connection charge obligations applicable to this project will be computed during the building construction plan check process and shall be payable at time of issuance of building permit unless other arrangements have been approved to defer such payments to a later date. For information relating to water and sewer service requirements and connection charges, contact Frank Saburit at (559) 621-8077.
- d) Open street cuts are not permitted; all utility connections must be bored.
- e) CROSS-CONNECTION CONTROL. A backflow prevention device may be required on the water service. Contact the Department of Public Utilities, Water Division (559) 621-5300 for requirements relating to approved devices, locations, testing and acceptance. This requirement must be satisfied prior to final occupancy.

4) OFF-STREET PARKING FACILITIES AND GEOMETRICS

- a) Off-Street (on-site) parking facilities and geometrics shall conform to the City of Fresno, Public Works Department, Parking Manual, and Standard Drawing(s) P-41, P-42, P-43.
- b) Install **30"** state standard "STOP" sign(s) at location(s) shown. Sign shall be mounted on a **2"** galvanized post with the bottom sign **7'** above ground; located behind curb and immediately behind a major street sidewalk. A "right turn only" sign is also required, at

the same location; install **30" x 36"** state standard sign immediately below the stop sign on the same post.

5) SURVEY MONUMENTS AND PARCEL CONFIGURATION

- a) All survey monuments within the area of construction shall be preserved and if disturbed, shall be reset by a licensed land surveyor of the State of California.

6) IRRIGATION DITCH/CANAL REQUIREMENTS

- a) There are no irrigation requirements at this time.

7) DEVELOPMENT IMPACT FEES

- a) City of Fresno Development Impact Fee obligations applicable to this project will be computed during the building construction plan check process. The specified fees will be payable at time of issuance of building permit, at time of issuance of certificate of occupancy, or deferred with a fee deferral covenant.
- b) Deferment of the payment of Citywide development impact fees for Fire, Police, Parks, Streets, and Traffic Signals is available for projects located within the Downtown Priority Areas in accordance with the provisions of Resolution Nos. 2009-265 and 2010-19.
- c) For information related to City of Fresno Development Impact Fees, contact Frank Saburit at (559) 621-8077.
- d) Traffic Signal Fee. This project shall pay its Traffic Signal Mitigation Impact Fee at the time of building permit based on the trip generation rate(s) as set forth in the latest edition of the ITE Generation Manual. Refer to the adopted Master Fee Schedule for fee rate. This fee shall be paid at time of building permit.
- e) WATER CONNECTION CHARGES: (FMC Sections 14-107 to 14-110). The following water connection charges may be required and will be payable at the fee rate listed in the Master Fee Schedule at the time payment is due. New water connection charges adopted by the Council **prior** to issuance of building permits may also be applied.
 - (i) Frontage Charge (based on property frontage *to existing water main*)
 - (ii) Transmission Grid Main Charge (based on *parcel* acreage)
 - (iii) Transmission Grid Main Bond Debt Services Charge (based on *parcel* acreage)
 - (iv) Service Charges (based on service size required by applicant)
 - (v) Meter Charges (based on service need)

f) SEWER CONNECTION CHARGES (FMC Section 9-503-a). The following sewer connection charges may be required and will be payable at the fee rate listed in the Master Fee Schedule at the time payment is due. New sewer connection charges adopted by the Council prior to the issuance of building permits may also be applied.

(i) Lateral Sewer Charge (based on property frontage *to existing sewer main*, to a depth of 100')

(ii) Oversize Sewer Charge (based on property frontage to a depth of 100')

Effective January 9, 1999, Ordinance No. 98-97 also amended certain sewer connection charges. Fresno Municipal Code Article 15, Section 12 provides property owners the incentives and deletes certain sewer connection charges pursuant to the Simple Tiered Equity Program (STEP) and the Employment Development Program (EDP).

For additional information on the STEP and EDP, contact the Department of Public Utilities, Administration Division at (559) 621-8600.

(iii) Upon occupancy of the project, the developer shall pay the appropriate sewer facility charge pursuant to the Simple Tiered Equity Program (STEP) as determined by the Department of Public Utilities, Wastewater Division, Environmental Services Section (559-621-5153).

g) Citywide Traffic Signal Mitigation Fee. This project shall pay its Traffic Signal Mitigation Impact Fee at the time of building permit based on the trip generation rate(s) as set forth in the latest edition of the ITE Generation Manual. Refer to the adopted Master Fee Schedule for fee rate. This fee shall be paid at time of building permit.

h) Citywide Fire Facilities Charge (based on building square footage)

i) Citywide Police Facilities Charge (based on building square footage)

j) Citywide Park Facilities Charge (based on the number of residential units)

k) Citywide Regional Street Charge (Planned Land Use-based on parcel acreage)

8) OTHER AGENCIES IMPACT FEES

a) Satisfy the Fresno County Facilities Impact Fee obligation. Provide County Facilities Impact Fee receipt from the County Public Works and Planning Department (559-488-3496) as proof of payment or exemption prior to the issuance of building permits.

b) Satisfy the Fresno County Regional Transportation Mitigation Fee (RTMF), as required by the RTMF Joint Powers Agency (559-233-4148). The RTMF Informational Summary and the Record of Payment forms are available at the Development and Resource

Management Department public counter.

- (i) The completed Record of Payment of the RTMF form of the must be submitted to the City prior to the issuance of building permits. Prior to issuance of the Certificate of Occupancy, the Record of Payment of the RTMF form must be signed indicating the Disposition of RTMF by the RTMF JPA.

PART D – PLANNING/ZONING REQUIREMENTS

1) PLANNING

- a) Development is subject to the following plans and policies:
 - (i) C-4, Central Trading District (*Section 12-220 of the FMC*)
 - (ii) Fulton/Lowell Specific Plan
 - (iii) Hoover Community Plan
 - (iv) 2025 Fresno General Plan
 - (v) Development Department, Performance Standards for Parking Lot Shading

2) ZONING

- a) Development is proposed in accordance with the existing C-4 (*Central Trading*) zone district. All future uses shall be subject to review pursuant to the above mentioned sections of the FMC. A restaurant serving alcoholic beverages, a tavern, and a nightclub are allowed uses subject to a conditional use permit in the C-4 zone district.
- b) Comply with the operational statement dated June 11, 2010.

3) BUILDING HEIGHT

- a) No building or structure over 60 feet shall be erected in this district. Depict the height of the existing building.

4) LOT COVERAGE

- a) There is no maximum lot coverage requirement in the C-4 zone district.

5) BUILDING SETBACK, OPEN SPACES AND LANDSCAPING

- a) There are no requirements for setbacks.
- b) All landscaping shall comply with the Anti-Graffiti Landscaping, Landscaped Buffer Development and Planting Standards, attached.
- c) Clearly identify all condensing units, air conditioning and heating units on the site and elevation plans.

- d) No structures of any kind (*including signs and/or fences*) may be installed or maintained within the above-landscaped areas. No exposed utility boxes, transformers, meters, piping (excepting the backflow prevention device), etc., are allowed to be located in the landscape areas or setbacks or on the street frontages of the buildings. All transformers, etc., shall be shown on the site plan. The backflow device shall be screened by landscaping or such other means as may be approved. **(Include this note on the site plan.)**
- e) Install any required street trees along East Divisadero and/or North Fulton Streets.

6) SPACE BETWEEN BUILDINGS

- a) There is no requirement for space between buildings in the C-4 zone district.

7) FENCES, HEDGES, AND WALLS

- a) Temporary fences to secure projects under construction are allowed. Any temporary fence shall be adequately secured and constructed to prevent overturning due to wind, vandalism, and/or casual contact by the general public. The construction shall be performed in such a manner as to minimize any potential safety hazard, which may occur as a result of improper fence installation or damage to the fence.
- b) Future fences shall be reviewed and approved by the Development and Resource Management Department prior to installation. **(Include this note on the site plan.)**

8) OFF-STREET PARKING

- a) The parking area or space requirements imposed by the provisions shall not apply upon a change of occupancy for any building or structure which was constructed before February 13, 1954, provided that the parking area or space existing immediately before a change of occupancy is not reduced.
- b) The American Title Company assigns a 1950 construction date to the mid-century building. There is no original building permit on file but a 1951 permit was issued for alterations to a store for retail. Therefore, no parking is required by the FMC.

9) ACCESS

- a) There shall be adequate vehicular access from a dedicated and improved street, service road or alley, the design of which shall be approved by the Director of Public Works.
- b) The Director shall specify the location and number of means of ingress and egress to property by conditions established at the time of review of the required site plan.

10) ADDRESSING

- a) The address listed in the conditions of approval is the 'Official Address' given to the building. If you would like separate suite or unit numbers for a building, provide a floor plan and contact the City of Fresno Planning and Development Department for 'Official Addresses'. **Only those addresses assigned by the City of Fresno will be recognized as 'Official Addresses'.** The United States Post Office will only recognize addresses assigned by the City of Fresno. If a non-official address is given to a building and or/separate suites, the City of Fresno has the authority to charge a fee and have those addresses corrected. In addition, the United States Post Office will cease mail delivery to those addresses that are not 'Official Addresses'.

11) NOISE

- a) Pursuant to Section 10-102.b of the FMC, noise levels for commercial zoned properties shall not exceed 60 decibels from 10 p.m. to 7 a.m. and 65 decibels from 7 a.m. to 10 p.m. measured at the nearest subject property line. Future uses and/or development shall be required to comply with this provision. **(Include this note on the site plan.)**

12) OUTDOOR ADVERTISING

- a) Signs, *other than directional signs, if applicable*, are not approved for installation as part of this special permit. **(Include this note on the site plan.)**
- b) All signs shall be architecturally compatible with the proposed building and shall comply with Section 12-217.5-K of the FMC.

13) HOURS OF OPERATION

- a) The proposed hours of operation will be as follows:
 - (i) Wednesday through Saturday—Nightclub: 5 p.m. to 2 a.m. (Initial hours)
 - (ii) Sunday through Tuesday—Nightclub: 5 p.m. to 2 a.m.

14) RESTAURANT/TAVERN/NIGHTCLUB

- a) A Restaurant shall stop sales, service and consumption of alcohol at 12:30 a.m. nightly. A Tavern and Nightclub shall stop sales, service and consumption of alcohol at 2:00 a.m. nightly.
- b) An evacuation plan in case of an emergency and a security plan shall be submitted to the Development and Resource Management Department. The City of Fresno Police Department shall review and approve the security plan.
- c) If a business proposes to operate in more than one mode of operation, e.g., a restaurant that converts to a night club in the evening, each phase shall be evaluated and

conditions shall be assigned accordingly. Each phase must be allowed in the district.

- d) The owner or applicant shall be responsible to conspicuously post the hours of operation for each phase type (i.e., restaurant, nightclub) near the entrance of the establishment. It shall be 8.5×11 inches in size, to be provided for by the City. This posting shall be made available to City officials upon request. Additionally, the address of each facility shall be posted in compliance with City codes.
- e) The proposed operations shall comply with Sections 12-326 and 12-327 of the FMC.
- f) The hours of dancing shall be as follows:

Age of Participants	Closing Hour	Extensions
Under 18 years of age	12 midnight	—
Under the age of 21	1 o'clock am	—
21 and over	2 o'clock am	5 o'clock a.m. on New Year's day
	Night Clubs may stay open until 4 o'clock a.m. in the Central Area Community Plan boundaries south of Divisadero Street.	
Restricted Hours	No dancing shall be held between the applicable closing hour and 8 o'clock a.m. of any day.	

PART E – CITY AND OTHER SERVICES

1) BUILDING & SAFETY

- a) A change of occupancy is required. Submit plans and obtain permits.

2) SOLID WASTE MANAGEMENT

- a) The extent of work does not warrant the requirement for a trash enclosure.

3) DEPARTMENT OF PUBLIC UTILITIES

- a) Comply with the attached Department of Public Utilities water memorandums dated June 30, 2010.

4) FIRE PROTECTION REQUIREMENTS

- a) The Fresno Fire Department provided no comments at this time.

5) POLICE DEPARTMENT

- a) Comply with the attached Fresno Police Department memorandum dated June 23, 2010.

6) FRESNO COUNTY ENVIRONMENTAL HEALTH

- a) Comply with the attached County of Fresno Department of Public Health memorandum, dated June 24, 2010.

7) SCHOOL FEES

- a) Comply with the attached Fresno Unified School District memorandum, dated June 22, 2010.
- b) School fees must be paid, if required, prior to the issuance of building permits. Contact Fresno Unified School District. Provide proof of payment (or no fee required) prior to the issuance of building permits.

8) SCHOOL FEES

- a) Comply with the attached Redevelopment Agency memorandum dated July 12, 2010.

PART F – MISCELLANEOUS

- 1) Approval of this site plan is contingent upon the submittal of corrected exhibits showing all existing/proposed on-site conditions as reflected on all exhibits (dated May 14, 2008) and the following:
 - a) Patrons shall not utilize parking in the interior residential streets, i.e. north of Divisadero.
 - b) Receptacles for garbage and cigarettes shall be placed at the entrances along East Divisadero and North Fulton Streets.
 - c) Plant a tree in the empty tree well along East Divisadero Street.
 - d) Screen all roof-mounted equipment from the view of public rights-of-way. **Depict all mechanical equipment on site plan and elevations.**
 - e) If archaeological and/or animal fossil material is encountered during project surveying, grading, excavating, or construction, work shall stop immediately. **(Include this note on the site plan.)**
 - f) If there are suspected human remains, the Fresno County Coroner shall be immediately contacted. If the remains or other archaeological material is possibly Native American in origin, the Native American Heritage Commission (Phone: (916) 653-4082) shall be immediately contacted, and the California Archaeological Inventory/Southern San Joaquin Valley Information Center (Phone: (805) 644-2289) shall be contacted to obtain

a referral list of recognized archaeologists. An archeological assessment shall be conducted for the project, the site shall be formally recorded, and recommendations made to the City as to any further site investigation or site avoidance/preservation. **(Include this note on the site plan.)**

- g) If animal fossils are uncovered, the Museum of Paleontology, U.C. Berkeley shall be contacted to obtain a referral list of recognized paleontologists. An assessment shall be conducted by a paleontologist and, if the paleontologist determines the material to be significant, it shall be preserved. **(Include this note on the site plan.)**

All discretionary condition of approval will ultimately be deemed mandatory unless appealed in writing to the Development and Resource Management Department Director within 15 days.




DEPARTMENT OF PUBLIC UTILITIES



Providing Life's Essential Services

Date: June 30, 2010

To: MCKENCIE CONTRERAS, Planner III
Planning and Development Department

From: DOUG HECKER, Supervising Engineering Technician 
Department of Public Utilities, Planning and Engineering

Subject: SEWER REQUIREMENTS FOR CONDITIONAL USE PERMIT C-10-143-ABCUP

General

C-10-143 ABCUP was filed by Jaime Gonzalez and pertains to 0.09 acre of property located on the northwest corner of East Divisadero and North Fulton Streets, 875 East Divisadero Street, APN 459-305-07. The applicant requests authorization to establish a live music venue and full service bar-nightclub with a State of California Alcoholic Beverage Control Type 47 license, sale of beer, wine, and distilled spirits for consumption on the licensed premises, and to operate from 5 p.m. to 2 a.m. The Velvet Lounge nightclub is proposed within an existing 2-story commercial office building that has been vacant for 17 years. The property is zoned C-4, Central Trading.

Environmental Recommendations

A NEGATIVE DECLARATION MAY BE ISSUED: The project may have adverse impacts but impacts can be mitigated without further study or are not serious enough to warrant an Environment Impact Report.

Sewer Requirements

The nearest sewer main to serve the proposed project is an 8-inch main located in W Belmont Ave. Sewer facilities are available to provide service to the site subject to the following requirements:

1. The Project Developer shall contact Wastewater Management Division/Environmental Services at (559) 621-5100 prior to pulling building permits regarding conditions of service for special users.

Sewer Fees

The following Sewer Connection Charges are due and shall be paid for the Project:

1. Sewer Facility Charge (Non-Residential)
2. Upon connection of this Project to the City Sewer System the owner shall be subject to payment of Sewer Facility charges per Fresno Municipal Code Section 6-304 and 6-305. Sewer Facility Charges consist of two components, a Wastewater Facilities Charge and Trunk Sewer Charge where applicable.

3. Sewer Facility Charges are collected after occupancy on a bi-monthly basis over time based on metered (water or sewer effluent) usage. The developer may contact the Department of Public Utilities/Wastewater-Environmental Control at (559) 621-5153 to receive an estimated cost of the Sewer Facility Charges applicable to the project (based on a constant sewer discharge and loading (Biochemical Oxygen Demand [BOD] and Total Suspended Solids [TSS] levels anticipated) at the current rates in effect, at that time, per Fresno's Master Fee Resolution. The developer shall provide data regarding estimated sewer discharge rates [flow] and loading [BOD/TSS levels] required for calculating the estimated charges.




DEPARTMENT OF PUBLIC UTILITIES



Providing Life's Essential Services

Date: June 30, 2010

To: MCKENCIE CONTRERAS, Planner III
Planning and Development Department

From: DOUG HECKER, Supervising Engineering Technician 
Department of Public Utilities, Planning and Engineering

Subject: WATER REQUIREMENTS FOR CONDITIONAL USE PERMIT C-10-143-ABCUP

General

C-10-143 ABCUP was filed by Jaime Gonzalez and pertains to 0.09 acre of property located on the northwest corner of East Divisadero and North Fulton Streets, 875 East Divisadero Street, APN 459-305-07. The applicant requests authorization to establish a live music venue and full service bar-nightclub with a State of California Alcoholic Beverage Control Type 47 license, sale of beer, wine, and distilled spirits for consumption on the licensed premises, and to operate from 5 p.m. to 2 a.m. The Velvet Lounge nightclub is proposed within an existing 2-story commercial office building that has been vacant for 17 years. The property is zoned C-4, Central Trading.

Environmental Recommendations

A NEGATIVE DECLARATION MAY BE ISSUED: The project may have adverse impacts but impacts can be mitigated without further study or are not serious enough to warrant an Environment Impact Report.

Water Requirements

The nearest water main to serve the proposed project is an 8-inch main located in N Fulton Ave. Water facilities are available to provide service to the site subject to the following requirements:

1. All multi-story building(s) may require booster pumps for domestic water use within the building(s).

Water Fees

The following Water Connection Charges and fees shall be paid for the project.

1. Wet-tie(s), water service(s) and/or meter(s) installation(s)

June 23, 2010

MEMORANDUM

TO: JOANN ZUNIGA
City of Fresno Planning Division

FROM: CAPTAIN GREG GARNER
Fresno Police Department,
Commander, Southwest Policing District

SUBJECT : REQUEST FOR COMMENT – ABCUP APPLICATION C-10-143, THE VELVET LOUNGE

I am in receipt of a Request for Comment regarding the above referenced ABCUP application. Below is a list of Police Department concerns, and some suggested mitigation:

1. **Vehicle Traffic/Parking**

The application states the number of anticipated patrons to the business is approximately 300 per night. Although the applicant anticipates a number of the patrons walking to the establishment from the nearby neighborhoods, an increase in both vehicular and pedestrian traffic can be predicted. The streets surrounding the proposed location (Divisadero to the south, Fulton to the east) are already heavily traveled. In addition, the traffic flow on Fulton Avenue has recently been changed from a one-way street with two (2) lanes of southbound traffic, to a roadway with only one lane of vehicular traffic, with a bicycle lane added on the proposed business side of the roadway.

In addition to a vehicular traffic flow increase, parking would also present a significant concern. Even if fifty percent (highly unusual) of the estimated 300 nightly patrons would access the location on foot from the surrounding neighborhoods, an estimated 70 to 80 vehicles would be forced to park in these same surrounding neighborhoods.

Mitigation: Construction of an adjacent off-street parking facility. Although there is no current Municipal Code requirement to do so, building an off-street parking facility adjacent to the proposed business would relieve the inevitable parking problems in the surrounding residential neighborhoods. It could also assist in the traffic flow problem by reducing the need to drive around the neighborhood searching for a parking spot.

2. **Excessive Noise**

The applicant is anticipating the use of live music, requiring sound amplification. The proximity of the residential neighborhoods, including three (3) large apartment complexes located directly to the east, north and south of the proposed site, raises a concern of excessive noise complaints. Similar establishments in the north end of the city (Herndon @ Palm area), in like proximity to

residential neighborhoods, have generated numerous police calls for service based on amplified music emanating from nearby nightclubs. In addition, noise generated from additional vehicular traffic and the presence of a large numbers of pedestrians in the area is also a concern.

Mitigation: To minimize the amount of noise escaping the business itself, sound-proof wall construction in the portions of the business from which the sound might escape. Additionally, an entrance with a double-door system, allowing access into the building by patrons, without exposing the neighborhood to loud music coming from within, would be important.

3. Excessive Alcohol Usage

An existing liquor store is located next to the proposed location. In addition, less than 100 yards northwest of the location is another, full service liquor store. Police calls for service regarding public intoxication in the area will rise, as patrons who chose to walk to the location (as anticipated by the applicant) from the surrounding neighborhoods return to their homes. These types of CFS tie up police resources for extended periods of time, as arrests for public intoxication can lead to extended wait times at the County Jail, or at Community Regional Medical Center (CRMC) should medical attention be required.

Mitigation: Ensure employees of the proposed business responsible for serving alcoholic beverages receive appropriate training regarding the non-service of intoxicated individuals. Provide documented periodic employee training updates, as well as a mandatory new-employee training requirement.

4. Increase in Vehicle Theft/ Vehicle Burglaries/Person Robberies

The increased number of parked vehicles in the area, as well as increased pedestrian traffic in the early morning hours, will generate a “target rich” environment for would-be car thieves, vehicle burglars, and robbers. Other similar establishments in the city have experienced problems with these type crimes as a result of the increased “population” in the area.

Mitigation: In addition to the construction of an off-street parking facility, the installation of a state-of-the-art video surveillance system could reduce the number of crimes occurring in the area, as well as providing a valuable aide to the Police Department’s efforts to investigate any crimes that do occur. Although city-owned “Video Policing” cameras are currently installed nearby (along Divisadero Street), cameras dedicated to this facility would be essential in any crime prevention effort.

5. Increased Loitering/Panhandling

As previously stated, the increased “population” will also create a predictable opportunity for excessive loitering and panhandling in the area of the proposed new business. Individuals engaged in similar activities are often drawn to locations that generate large amounts of pedestrian traffic, as would be the case here. This would also pose an increased threat of criminal activity, perpetrated by the same individuals, in the adjacent residential neighborhoods.

Mitigation: Ensure the business is properly posted with appropriate signage indicating Trespassing and Loitering violations will be prosecuted, as well providing written permission in the form of an authorization letter to the Police Department, which will allow for immediate enforcement, when violations are witnessed by law enforcement personnel.

Please contact me should you have any questions.



County of Fresno

Department of Public Health

Edward L. Moreno, M.D., M.P.H., Director-Health Officer

June 24, 2010

999999999
LU0015701
PE 2602

McKencie Contreras
City of Fresno
Development Department
2600 Fresno Street
Fresno, CA 93721

Dear Ms. Contreras:

PROJECT NUMBER: C-10-143 ABCUP

Conditional Use Permit Application No. C-10-143 was filed by Jaime Gonzalez and pertains to 0.09 acre of property located on the northwest corner of East Divisadero and North Fulton Streets. The applicant requests authorization to establish a live music venue and full service bar/nightclub with a State of California Alcoholic Beverage Control Type 47 license (sale of beer, wine, and distilled spirits for consumption on the licensed premises) and to operate from 5 p.m. to 2 a.m. The Velvet Lounge nightclub is proposed within an existing 2-story commercial office building that has been vacant for 17 years. The property is zoned C-4 (*Central Trading*).

APN: 459-305-07

ZONING: C-4

ADDRESS: 875 East Divisadero Avenue

Recommended Conditions of Approval:

- Prior to issuance of building permits, the applicant shall submit complete food facility plans and specifications to the Fresno County Department of Public Health, Environmental Health Division, for review and approval. Contact the Consumer Food Protection Program at (559) 445-3392 for more information.
- Prior to operation, the applicant shall apply for and obtain a permit to operate a food facility from the Fresno County Department of Public Health, Environmental Health Division. A permit, once issued, is nontransferable. Contact the Consumer Food Protection Program at (559) 445-3392 for more information.
- Prior to operation, the applicant shall contact the California Alcoholic Beverage Control Department at (559) 225-6334 for information relative to applying for and obtaining a license to sell alcoholic beverages.

The following comments pertain to the remodel of the existing structure:

- Should the structure have an active rodent or insect infestation, the infestation should be abated prior to remodeling of the structure in order to prevent the spread of vectors to adjacent properties.
- In the process of remodeling the existing structure, the contractor may encounter asbestos containing construction materials and materials coated with lead based paints.

McKencie Contreras
C-10-134
June 24, 2010
Page 2 of 2

- If asbestos containing materials are encountered, contact the San Joaquin Valley Air Pollution Control District at (559) 230-6000 for more information.
- If the structure was constructed prior to 1979 or if lead-based paint is suspected to have been used in this structure, then prior to the remodel work the contractor should contact the following agencies for current regulations and requirements:

California Department of Public Health, Childhood Lead Poisoning Prevention Branch, at (510) 620-5600.

United States Environmental Protection Agency, Region 9, at (415) 947-8000

State of California, Industrial Relations Department, Division of Occupational Safety and Health, Consultation Service (CAL-OSHA) at (559) 454-5302.

- Any construction materials deemed hazardous as identified in the remodeling process must be characterized and disposed of in accordance with current federal, state, and local requirements.

REVIEWED BY:

Janet Gardner

R.E.H.S., M.P.H.

Environmental Health Specialist III

Digitally signed by Janet Gardner
DN: cn=Janet Gardner, o=Environmental Health Division, ou=fresno
County Public Health Department, email=jgardner@co.fresno.ca.us, c=US
Date: 2010.06.24 10:03:52 -0700

(559) 445-3271

jg

cc: Baruti/Casagrande/Tolzmann, Environmental Health Division

C-10-134ABCUP The Velvet



Preparing Career Ready Graduates

BOARD OF EDUCATION

Valerie F. Davis, President
Michelle A. Asadoorian, Clerk
Lindsay Cal Johnson
Carol Mills, J.D.
Larry A. Moore
Janet Ryan
Tony Vang, Ed.D.

SUPERINTENDENT

Michael E. Hanson

June 22, 2010

McKencie Contreras, Development Services/Planning
Planning & Development Department
2600 Fresno Street, Third Floor
Fresno, CA 93721-3604

**SUBJECT: CONDITIONAL USE PERMIT NO. C-10-143-ABCUP
875 E. DIVISADERO ST.**

Dear Ms. Contreras,

In response to the City's request for comments on the pending Conditional Use Permit (C.U.P.) referenced above, Fresno Unified School District (FUSD) has the following comments and concerns:

The proposed 'The Velvet Lounge' to be located at 875 Divisadero Street, is requesting to establish a Type 47 (sale of beer, wine, and distilled spirits for consumption on the licensed premises) ABC liquor license. It is located within approximately 1,110 feet from Lowell Elementary School.

As per the State of California's Alcohol Beverage Control Act, an alcohol license can be refused by the State if the location is "within at least 600 feet from schools." Although schools are not within close proximity to the establishment, FUSD still has concerns regarding potentially dangerous interaction between our students and the proposed operation. FUSD's response on this project is subject to the Alcohol Beverage Control Act and the Fresno Police Department's review and support of the project with regard to the concentration and use of alcohol-related business in close proximity to school sites.

Any new commercial/industrial development which occurs, may ultimately affect the District by generating employees. The children of those employees living in the District will need to be housed in District schools.

The Fresno Unified School District levies a commercial/industrial development fee of \$0.47 per square foot. Any new development on the property will be subject to the development fee prior to issuance of a building permit. If the project is to be located within an existing building and no new square footage is planned, then no development fee would be charged.

If you have any questions or require additional information regarding our comments and concerns, please contact Deana Clayton, Project Manager, at (559) 457-3066.

Sincerely,

Lisa LeBlanc, Executive Director
Facilities Management and Planning

LL:hh

c: Miguel Naranjo, Principal, Lowell Elementary School

REDEVELOPMENT AGENCY OF THE CITY OF FRESNO
2344 Tulare Street, Suite 200, Fresno, CA 93721 (559) 621-7600

Application No.: C-10-143-ABCUP (McKencie Contreras)	Date: 7/12/2010
Assessor Parcel No.: 459-305-07	Reviewer: Terry Cox, Project Manager/ Management Analyst III
Site address: 875 E. Divisadero Street	Telephone: 621-7622
Redevelopment Area: Freeway 99-Golden State Corridor	

Agency Staff Recommendation:

APPROVE PROJECT WITH THE FOLLOWING CONDITIONS:

1. The property identified in Application No. C-10-143-ABCUP is located within the adopted Freeway 99-Golden State Boulevard Corridor Redevelopment Project and is subject to all requirements of the Redevelopment Plan.
2. The Redevelopment Agency does not object to the proposed establishment of a live music venue and full service bar/nightclub with a State of California Alcoholic Beverage Control Type 47 license and to operate from 5:00 p.m. to 2:00 a.m. in an existing, vacant 2-story commercial office building. Agency support of this project is conditioned on the ability of the development to be in conformance with all requirements of the Redevelopment Plan and the C-4 (Central Trading) zone district and Section 12-304 (including subsequent applicable Sections of the Fresno Zoning Ordinance.
3. The project shall also be subject to and be in conformance with the requirements of the Industrial Development Design Guidelines as applicable.
4. The project shall be subject to all applicable requirements associated with any active approved Site Plan or permits that are enforced for the development of the overall 0.09-acre site located at 875 E. Divisadero Street.
5. The project identified in this entitlement application shall be developed in accordance with the Operational Statement and Site Plan (or as revised by the City of Fresno) submitted for Conditional Use Permit Application No. C-10-143-ABCUP.
6. All street improvements, public right-of-way encroachments and code requirements identified by the City of Fresno for this development shall be implemented, as required by the City, before the final approval of the development.
7. All existing and future landscaped areas shall be properly maintained and any dead plants, trees or ground cover will be removed and immediately replaced with the appropriate landscaping. All landscaping irrigation systems on site shall be properly maintained or repaired to ensure the healthy growth of plants and trees.
8. Specimen size street trees are recommended in the existing tree wells on the project site along the frontage of Divisadero Street to enhance the visual character of the buildings and the street frontage.
9. All streets trees shall be in conformance with the City of Fresno recommended list of street

PLEASE MAKE APPLICANT AWARE OF AGENCY COMMENTS

trees.

10. Approval of this entitlement applies only to the development identified in Application No. C-10-143-ABCUP, any modifications or additions shall not be allowed without the modification of this Conditional Use Permit Application with prior approval from the City of Fresno Development Department and the Redevelopment Agency.
11. All outdoor advertising on site for the night club shall be restricted and be in conformance with the requirements of the Fresno Zoning Ordinance and subject to approval of the City of Fresno and the Redevelopment Agency.
12. All outdoor storage on-site shall be screened from view of public streets and in conformance with requirements of City code.
13. Due to the location of the project in a transitional commercial-residential (land use) environment, specific attention should be given to any comments and/or appeals on the approval of this application, including parking, and especially those concerning the association, operations and impacts of the night club and its sale and service of alcoholic beverages in this area.
14. The use of entrance control barricades, such as rope fences and gates, for patrons in the public right-of-way (sidewalk) shall be restricted and subject to approval by the City of Fresno and the Redevelopment Agency.
15. It shall be the responsibility of the Velvet Lounge (business) to comply with all security procedures required by the City of Fresno; and to provide a safe and secure night club environment for its patrons, especially in association with the on-site sale and service of alcoholic beverages.
16. The State Mandated Training of Liquor Sales and Handling shall be required for all new employees prior to start of employment and will be implemented in the operational policy of the Velvet Lounge (business).
17. The sale of beer, wine and distilled spirits (for consumption on the licensed premises) allowed by the requested ABC Type 48 license is consistent with the food and service provided by a full service business (nightclub) operation such as the proposed Velvet Lounge.
18. The Agency can support the issuance of an ABC Type 48 license to the Velvet Lounge in compliance with all requirements of ABC, the City of Fresno and Redevelopment Agency, provided that the request receives a favorable evaluation from the Fresno Police Department and adjacent property owners.
19. The Agency reserves the right to reconsider the issuance of Conditional Use Permit Application No. C-10-143 ABCUP to the Velvet Lounge (business), should the City of Fresno or the Redevelopment Agency of the City of Fresno receives any complaints about the night club operations and/or sales of alcohol beverages inconsistent with the requirements of Application No. C-10-143 ABCUP; which can result in a recommendation to the Alcoholic Beverage Control (ABC) Department of the State of California to revoke the license.

Applicant Response to Police Department Concerns

To: McKencie Contreras

From: Arthur Peraza Jr.
Director of Security of Fulton 55

Subject: In response to ABCUP APPLICATION C-10-143, Fulton 55

1. Vehicle Traffic/ Parking

We will be utilizing both Divisadero and Fulton Street parking areas. We've made arrangements with the African American Museum for additional parking to avoid heavy congestion. We will inform patrons via email, website, visible signage in front of the business advising additional parking at the museum, and advertisements. A two to three car parking area will always be available as a loading area for first responders such as law enforcement, fire, and EMT. This loading area will also be available for taxis, limousines, patrons pulling in momentarily for questions of parking, and ticket box office. This will ensure an uncongested free flowing traffic at all times.

2. Excessive Noise

New dual pane windows and new doors have been installed into the building to assist and contain noise from the live music venue. In further prevention of noise escaping the interior walls, an additional wall has been built just inside the entrance to aid any noise complaints. We've added a lock feature on the sound and lighting system in order to not exceed volume infractions. Prior to opening a professional noise meter reading will be taken in the surrounding areas such as residential, business, traffic locations, as well as the interior of venue, and we'll have a public notary of the reading. All the doors will remain closed during the duration of the venues operation; this will help keep the noise confined.

3. Excessive Alcohol Usage

All bartenders and servers will receive proper training from ABC in regards to proper serving practices, and reiterate severe repercussions failing to maintain that high standard to check and balance the implemented policies and procedures. Security will be maintaining visual observation of patrons to prevent over serving. Security or doorman will not allow any one whom is over intoxicated to enter the venue. The staff will work in conjunction to prevail in this attempt.

4. Increase In Vehicle Theft/ Vehicle Burglaries/ Person Robberies

Security will be highly prevalent both in front of the venue and the parking areas. The security company, in which will be employed, is licensed and bonded by the State of California. With continuous vehicle patrol and foot patrol in the parking areas on Divisadero and Fulton, and the African American Museum, this will ensure safety for our patrons, and reduce potential vehicle theft, vehicle burglaries, and person robberies. Our establishment will be installing surveillance system to assist in the suppression of criminal activities.

5. Increase Loitering/Panhandling

The business will have appropriate signage indicating trespassing and loitering violators will be prosecuted. The appropriate documentation of permission and authorization letter to the police department will be filled out to allow immediate enforcement of violators witnessed by law enforcement personnel. Security will also be prevalent in front of the venue to alleviate these potential violations.

Proposed Security Plan

November 4, 2010

Attention: McKencie Contreras/ To Whom It Concern

From: Arthur Peraza Jr.
Director of Security of Fulton 55

Fulton 55 Security Plan

1. Arthur Peraza Jr. – Director of Security
(559) 273 – 9885
2. Tony Martin – General Manager/ Arthur Peraza Jr. – Director of Security
 - During the hours of operation, the persons stated above will be responsible for monitoring and controlling the behaviors of patrons.
3. Tony Martin – General Manager
(559) 430 – 5071
4. All bartenders and employees will receive proper training from ABC in regards to proper serving practices, and reiterate severe repercussions failing to maintain that high standard to check and balance the implemented policies and procedures. Security will be maintaining visual observation of patrons to prevent over serving. Security or doorman will not allow any one whom is over intoxicated to enter the venue. The staff will work in conjunction to prevail in this procedure.
5. Adequate safety precautions have been taken by having a first aid kit located at both upstairs and downstairs bars. Fire extinguishers are located as indicated per fire inspection and at accessible locations.
6. Currently the burglar and fire alarm is being monitored 24 hours a day, seven days a week, by Matson Alarm.
7. There will be six security guards on site during business operation, and seven to eight guards for a sold out venue. The security plan will have two guards posted at the front door; a third guard posted at the east emergency exit off of Fulton Street; the fourth guard will be monitoring upstairs; the fifth guard will be roaming both floors checking bathrooms, stairwells, and additional support for problematic scenarios; and the sixth guard will be patrolling the parking areas, and will be assisting patrons safe arrival to the venue by maintaining visual and advising front door security, via radio, of patrons approach to the venue.
8. The nights that the venue is sold out, additional security will be implemented into the security plan. At least two more security guards will be added. In that event, a seventh guard will be placed by the bar downstairs, and the eighth guard will be placed at the bar upstairs.

9. We will be using a bonded and licensed security company for our exterior security, and we will be using an in house staff for our interior security.

10. Our closing procedure are as follows:

- the venue will announce the conclusion of the show
- approximately 10 – 15 minutes will be given as an advisement before glassware will be retained
- lights will go up
- a total of three guards will be upstairs to vacate the area, check bathrooms, and stairwells walking behind the patrons
- an additional three will join, totaling six, to vacate the bottom floor following the patrons to exit the front door
- at that time the doors will be locked
- seven guards will patrol outdoors to guide patrons to their vehicles, as well as provide a safe environment, also to ensure within one half hour period the premise and surrounding area is cleared of patrons and noise

The Fresno Police Department may require an adequate number of contracted law enforcement personnel as a part of the approved security plan

11. A copy of the security plan will be available at all times in the manager's office, so that it can be presented when requested by law enforcement.

12. I personally intend to maintain weekly contact with the local commander to ensure a high standard of effectiveness of this security plan and build a strong rapport.

Arthur Peraza Jr.

Director of Security of Fulton 55

Parking Agreement

Lease of Parking Lot.

Lease made ___November 1st___, 2010___, between ___African American Museum___ of ___Fresno, CA___, lessor, and ___Fulton 55, LLC___ of ___Fresno, CA___, lessee.

1. Lessor leases to lessee all that lot or parcel of ground in the county of ___Fresno___, state of ___CA___, more particularly described as follows: Parking lot located at The African American Museum at 1857 Fulton Fresno, CA 93721

2. For a one year term commencing on ___(December, date to be determined)___, 2010, for the purpose of a parking lot and for no other purpose.

3. In consideration of the donation made by lessee to lessor of \$ ___500.00___ dollars and, in addition, lessee agrees to make ^{As agreed} monthly cosmetic repairs to the premises excluding the cost of materials, work to be completed shall be agreed upon between lessor and lessee and materials shall be paid for by lessor. That \$ ___500.00___ donation shall be payable at once and on the ___5th___ day of each month (excluding the present month); and the work to be completed each month shall be completed before the end of the month. All donations under this lease shall be made by lessee to lessor at ___1857 Fulton Fresno, CA 93721___ or by bank check to the order of lessor mailed to lessor at ___1857 Fulton Fresno, CA 93721___ All donations shall be payable as above without notice or demand from lessor to lessee.

4. Lessee, in consideration of the lease of the demised premises and of the agreements of lessor contained in this lease, agrees to lease the premises from lessor, operate continuously as a parking lot and make the above payments to lessor.

5. It is agreed, in consideration of the reciprocal agreements of the parties contained in it, that this lease shall be upon the following terms and conditions:

6. Lessee shall be entitled to ___2___ successive renewals of this lease, each such renewal to be for a term of 1 year and to be subject to the terms and conditions of this lease, provided that written notice of the renewal is given by lessee to lessor in person on or before the ___ day of the preceding ___ or by mail addressed to lessor at ___ and mailed on or before the ___ day of the preceding ___.

7. This lease shall not be assigned in whole or in part, nor shall the premises or any part of them be sublet, nor shall any rights or privileges granted lessee be sold, transferred or assigned, without the consent of lessor in writing first obtained, and any such sale, transfer or assignment, whether voluntary or involuntary, shall be void and terminate this lease at the option of lessor.

8. Lessee shall construct and have the right to construct, at his or her own expense according to plans and specifications attached to and incorporated and made part of this lease as though fully set forth at this place, surfacing of the premises and driveways, parking stalls, fences and a service building on the premises.

9. On termination of this lease all surfacing of the premises, fences, and the service building shall become the property of lessor absolutely and free from claim, lien or incumbrance, and lessee agrees to indemnify lessor against, and save him or her harmless from, any such claim, lien or incumbrance.

10. Lessee shall maintain the premises in clean condition and good order, and not permit any nuisance or waste on it.

11. Lessee shall operate and have an attendant on duty on the premises Wednesday thru Saturday, between the hours of ___5:30___ p.m. and ___2:30___ a.m. and Sunday, between the hours of ___10:00___ a.m., and ___4:30___ p.m. All parking space shall be solely used for patrons of Fulton 55 and of no other establishment. Any cars left in the parking lot after closing will be towed off the premises.

12. Lessee shall have no authority to employ any person as agent or employee for or on behalf of lessor for any purpose, and neither lessee nor any other person performing any duties or engaging in any work at the request of lessee upon the demised premises shall be deemed to be an employee or agent of lessor.

13. Lessee shall have the right to enter into contracts with stores and other business establishments in regards to leasing additional parking for their patrons upon such terms and conditions as lessee in his or her sound business discretion sees fit.

14. Lessor shall pay all real estate taxes and special assessments on the demised premises other than on improvements placed on them by lessee. In the event real property taxes are increased as a result of improvements by Lessee, the amount of the increase shall be paid by Lessee.

15. Lessee agrees to provide a parking attendant, at cost of lessee, to remain at entrance of parking lot to assure only patrons of Fulton 55 will be occupying the parking lot. Patrons will be given a parking pass to be validated upon departure of Fulton 55, parking passes not validated shall be charged a parking fee.

16. Lessor shall be given first right to parking premise for purposes of events hosted by the African American museum. Lessor agrees to notify lessee 30 calendar days in advance of such event. Lessor and lessee agree to keep in communication to avoid problems with conflicting calendars of events.

17. Lessor shall not be liable for any personal injury, death or property damage sustained by lessee, any employee or agent of lessee or other person on the premises or as a result of, or in connection with, their operation as a parking lot, and lessee shall indemnify lessor against, and save lessor harmless from, any such liability or claim of such liability, where the injury or damage occurs during the term of this lease or as a

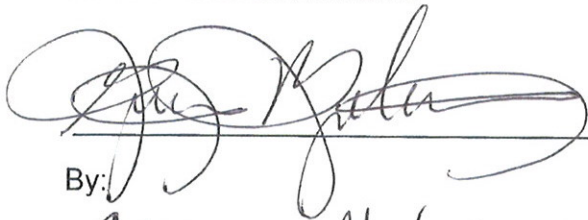
consequence of an occurrence during the term of this lease. Lessee shall maintain general liability insurance on the parking lot operations and shall name Lessor as an additional named insured on said policy.

18. If lessee defaults in the performance or observance of any of the covenants or conditions of this lease or enters bankruptcy or insolvency proceedings (voluntary or involuntary) or makes an assignment for the benefit of creditors, or if lessee's interest in and under this lease becomes vested, by operation of law or otherwise, in any other person, firm or corporation or in event of lessee's death, or in event of abandonment of the premises by lessee, lessor may, at his or her option and without notice, terminate this lease and reenter and possess the premises, without prejudice to any other rights or remedies under this lease or by law. At any termination of this lease, lessee shall peaceably surrender possession of the premises to lessor.

19. This lease shall bind the heirs, etc.

20. In witness, etc.

African American Museum



By:

GREGORY Melancon - Executive Director !

Print Name / Title

Fulton 55, LLC.



By:

Tony Martin - General Mgr - Fulton 55-

Print Name / Title

Environmental Assessment

**CITY OF FRESNO
CATEGORICAL EXEMPTION
ENVIRONMENTAL ASSESSMENT NO. C-10-143**

THE PROJECT DESCRIBED HEREIN IS DETERMINED TO BE CATEGORICALLY
EXEMPT FROM THE PREPARATION OF ENVIRONMENTAL DOCUMENTS
PURSUANT TO ARTICLE 19 OF THE STATE CEQA GUIDELINES.

APPLICANT: Jaime Gonzalez
875 East Divisadero Street
Fresno, California 93726

PROJECT LOCATION: 875 East Divisadero Street; Located on the northwest corner of East Divisadero and North Fulton Streets; APN: 459-305-07

PROJECT DESCRIPTION: Conditional Use Permit Application No. C-10-143, filed by Jaime Gonzalez, is requesting authorization to establish a live music venue and full service restaurant/bar/nightclub with a State of California Alcoholic Beverage Control Type 47 license (*sale of beer, wine, and distilled spirits for consumption on the licensed premises*) and to operate from 5 p.m. to 2 a.m. The nightclub is proposed within an existing two-story commercial office building that has been vacant for 17 years.

This project is exempt under Section 15301/Class 1 of the State of California CEQA Guidelines.

EXPLANATION: A Class 1 exemption consists of, among other things, the minor alteration of existing public or private structures involving negligible or no expansion of an existing use. Included in this exemption are interior or exterior alterations.

The above described project consists of interior and exterior alterations to the existing structure and is located in a fully urbanized and developed area that is not environmentally sensitive and where all public facilities are available to serve the proposed project.

No adverse environmental impacts will occur as a result of the proposed project.

Date: October 13, 2010

Prepared By: McKencie Contreras, Planner

Submitted By: _____



Mike Sanchez, Planning Manager
City of Fresno
Development and Resource Management Department
(559) 621-8277